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# 'Law and Order'

**A *Colloquy*, conducted by Ramsey Clark, G. Robert Blakey, Arthur Larson, Lloyd N. Cutler, Edgar Z. Friedenberg, Richard A. Falk, Robert Jay Lifton, Henry S. Ruth, Jr., Donald E. Santarelli, Jerome H. Skolnick and others.**

***Reported by Ralph Lee Smith***

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# LETTERS

## tribute to Krutch

*New York City*

DEAR SIRS: I am glad to write to you about Joseph Wood Krutch. My literary debt to him is incalculable. He went to the trouble, with the production of my first play, to write a considered article about it in *The Nation*. He analyzed the play and suggested a path I might take. I wrote him some years ago and sent him a book of mine. In my dedication of it I said that he was an artist-critic who indicated to me the kind of plays I might write. He wrote back very modestly, disclaiming any such ability or intention. But I know, and I think he did, that I was telling the truth.

Not long after his first notice of me appeared, I wrote to him and presently invited him to come to see my wife and me in a place we had acquired in Ridgefield, Conn. He was a man of enormous charm and my wife and I still remember and talk about that visit. It greatly saddened both of us when we read of his death. We did not feel he could be spared.

In all his subsequent reviews of my work Mr. Krutch adverted to his original stance about it and took all my plays as examples. . . . *S. N. Behrman*

## captive nations

*Mexico, D.F.*

DEAR SIRS: Each October "Captive Nations Week" is the occasion for ideological anti-Communists to air their reactionary views and to keep the cold-war mentality alive and boiling. . . . The idea is that the Soviet Union has made the nations of Latvia, Lithuania, Estonia and other Eastern European countries "captive." Many Americans who may not succumb to all the rabid anti-Communist pronouncements nevertheless sympathize with the pictured plight of the peoples in these nations.

This is a suggestion for the Movement to use "Captive Nations Week" (CNW) as an opportunity for educating Americans to their own Captive Nations: The Iroquois, Wyandottes, Cherokees, Ojibways, Sioux and all the other Indian Nations that have been made captives of the United States over the last two centuries; also Aztlan, the Aztec Nation of la Raza, that was made captive after the Mexican War in 1848. In each community where CNW is observed, representatives of the American Captive Nations can insist on being on the program. For each representative of Eastern European countries on the program, there should be at least one from the Captive Nations of America, since there are so many more of them. Petitions can be circulated to the public asking for equal justice for our own, native, Captive Nations. . . . Demonstrations can be organized and spontaneous participation in the proceedings encouraged. . . .

Others will no doubt think of other possible ways in which the character of "Captive Nations Week" can be changed from the anti-Communist binge it now is to an event supporting the release from oppression of the downtrodden of our own country. *Norman Balabanian*

## uneasy lies the head

*Concord, Calif.*

DEAR SIRS: The unanimous decision of the U.S. Supreme Court establishing that "the right to wear one's hair at any length or in any desired manner is an ingredient of personal freedom protected by the United States Constitution" should come as no surprise. Now it is hoped that this final legal ruling will ease what is perhaps the foremost generation-gap social irritant. Down through the centuries it has been accepted that "a man's home is his castle." May it also be accepted that "a man's hair is his crown." *Meldon C. Belknap*

# EDITORIALS

## Lawlessness and Disorder

Fear of crime is breeding, as Sen. Charles Percy said recently, a state of national paranoia. Citizens are bolting and double-bolting their doors, purchasing police dogs and fancy electronic warning systems, avoiding parks after dusk, and demanding ever increasing police protection. The fear is at least partially justified. Senator Percy says that in his first two years, six members of his staff were either mugged, robbed, burglarized or assaulted.

Against this background it is not surprising that "law and order" has become a key domestic political issue. Naturally, demagogues are exploiting it with little concern for the underlying realities. The President has recommended some thirteen bills dealing with crime, pornography, narcotics, and the use of explosives. He has warned that "the people will remember" in November the indifference of Congress, if it fails to take favorable action on these measures. What he has done, of course, is to pass the buck to Congress by proposing dubious legislation on complex issues, intending later to blame a Democratic Congress for not having enacted it.

Congress should carefully scrutinize the President's package before it acts, and a large portion of it should be rejected. A case in point is the bill to curb organized crime which breezed through the Senate in January by a vote of 73 to 1, with only Sen. Lee Metcalf voting against it. This is perhaps the blackest mark against the Senate in recent years, for S.30 is a dangerous bill of dubious constitutionality. Spokesmen for the Association of the Bar of the City of New York have said that it "contains the seeds of official repression," as indeed it does. It would give grand juries the power to denounce public officials when there is not sufficient evidence to indict. It would permit grand jury witnesses to be held in jail up to three years for refusing to testify. It would allow judges to impose prison terms up to thirty years on so-called "dangerous special offenders," on the basis of evidence that might not be admissible in court. And it would severely limit a defendant's right to object to the use of evidence obtained by violating the Constitution—including wire taps, coerced confessions, and illegal searches.

Protagonists of such measures might abate their efforts long enough to read Ralph Lee Smith's report in this issue on a recent "Law and Order" conference in Washington, which was sponsored by the Fund for New Priorities and went unreported in the nation's press. The public's fear of crime is neither fanciful nor unreal, although it is doubtless exaggerated; the reality of the fear generates immense pressure for "get tough" action here and now.

We commend to the Congress Mayor John V. Lindsay's notable address on "The Rule of Law," given to the Association of the Bar of the City of New York some months back, which Senator Javits inserted in the *Congressional Record* on June 10, 1970, p. 8723. Our system of criminal justice strikes many citizens—and not only those in ghettos—as a system of criminal *injustice*. How, therefore, can they be expected to respect the law? As Mayor Lindsay points out:



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Skepticism about the law is not confined to one part of the community. The signs of a legal structure that mocks its own ideals are everywhere for every American.

You cannot expect people to respect the law if you tell them, almost proudly, that its final arbiters should be mediocre. You do not persuade people that the law is apolitical by converting the highest court in the land into a political battlefield. And you do not convince people to wait patiently for justice with a Supreme Court nominee whose only notable public remark is an ethnic joke.

You do nourish and multiply disaffection by debasing the court. Or by turning toward repression, toward repudiation of our rights and liberties.

The course of events in recent months reveals clearly the reaction repression breeds.

Faith in the system declined—and rightly so—in the aftermath of the tawdry judicial parody enacted in the trial of the Chicago Seven—a trial that was fundamentally an examination into political beliefs. After that dubious exercise, a disaster for all concerned, it is harder to believe that the system is open, fair-minded, and humane.

Faith in the system declined—and rightly so—when those in charge of justice proposed legislation to undermine or erase basic protection against illegal searches and self-incrimination. We cannot begrudge the doubters their doubts when we learn how little opposition to these proposals has surfaced in either house of Congress.

Faith in the system declines—and rightly so—when the administration exults in its "prosecution mindedness" —and the intemperate language of the vice president heightens the tensions at a university already on the edge of turmoil.

And a fugitive faith is not recaptured by proposals for preventive detention. . . .

The dangerous temptation is to decide that we can no longer live with this system. But the inescapable truth is that we cannot live without it. If the schools close down for awhile, or if an outraged citizenry finally succeeds in tearing down City Hall brick by brick, we will survive somehow. But if we lose the courts, we lose everything. All we have left is the law of the jungle. The destruction of our legal institutions would level the strongest barriers between us and tyranny.

Strong words, these, but justified. So let the preoccupation with "law and order" focus for a change on those aspects of the functioning of the system of criminal justice that produce a decline of faith in it, matters touched on at the conference which Mr. Smith reports in this issue.

## Political Self-Help

Kenneth Gibson's election as Mayor of Newark—the first Negro to be elected mayor of an Eastern city and the third to be elected mayor of a large city—represents a new thrust of black power in politics. In Newark and elsewhere black voters are striking out on their own —not by any means alone (Gibson received a substantial and vital white vote) but free of existing party machines or old-line political organizations.

In recent municipal elections in Virginia, black candidates scored significantly. Negroes were elected, for the first time in history, to the city councils of Roanoke, Charlottesville, Lynchburg, Alexandria and Emporia, a southside community. Rep. John L. McMillan, dean of

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the South Carolina Democratic delegation and chairman of the District of Columbia Committee, was forced into a run-off with a Negro. In Georgia, Negroes are running for comptroller general, lieutenant governor and governor (C. B. King, the well-known lawyer from Albany, Ga.), as well as for the state legislature.

In much the same way, black lawyers are taking over the leadership of the civil rights movement in the South, and it is worth noting that many of them are Southern Negroes who have graduated from Southern law schools, including the University of Mississippi.

On June 12, Negroes met in Macon, Ga., to design a political strategy to offset Nixon's "Southern Strategy." A solid bloc of black voters is being organized across the South which could play an important part in the 1972 election. This would be the first time an independent Negro bloc has emerged in the South. A major effort by blacks to register black voters is under way as well as a drive by the Black Coalition of Georgia to raise $1 million for campaigns from the state's black electorate.

It would be a mistake, of course, to conclude from these developments that a miraculous change of some kind is about to take place. But one may be quite sure that respect for blacks will rise as their political power is effectively organized and used as an independent force.

Mr. Gibson faces an enormously difficult task in Newark. The power of City Hall may be inadequate to cope with some of the city's more urgent problems. But Mr. Gibson has said that the Newark police should not be an "occupation force," as they proved to be during the 1967 riots, and that he intends to see to it that they function as authentic public servants.

As with other aspects of American politics, the temptation to exult is to be avoided as carefully as is the inclination to despair. These gains should soon begin to speed the political advance of Negroes across the nation.

## A Great Public Servant

It is easy to jibe at Congress. Mark Twain suggested that it could be shown by facts and figures that "there is no distinctly native American criminal class except Congress"; at another time he asserted that the difference between Congressmen and fleas was that the fleas were more educable. Coming down to realities, however, the fact is that beside the inescapable rogues and fools, the Congress of the United States has been served by capable, dedicated men, without whom the Republic could not have survived. Nor is the Congress lacking in illustrious figures today: among these is the oldest member of the Senate, Stephen M. Young, whom we are about to lose by retirement.

Senator Young served as a Representative in four Congresses, beginning with the 73rd; his service as a Senator began in 1958. He has held many other public offices, and throughout his career has expressed the results of his investigations lucidly and courageously.

To speak so requires greatness of character, and it is manifested today as at the start of a career which began in 1911 with Mr. Young's admission to the Ohio bar. If anyone doubts it, let him refer to the results of the Senator's investigation of the Kent State University massacre (*Congressional Record—Senate*, June 8, 1970, S8496). As a lawyer and a former criminal prosecuting attorney, Mr. Young stands for genuine law and order. He would like to see those guilty of burning the ROTC building punished, but the more serious crime is what engrosses him. He has statements from witnesses indicating that a lieutenant's order to fire preceded the volley which killed four students who were in no way connected with the disorders, and wounded ten other boys and girls, one of whom is paralyzed from the waist down. Senator Young wants to see the lieutenant, the deputy adjutant general who was on the scene, and the adjutant general himself, charged with murder in the second degree. Probably they won't be, but the forthright demand is characteristic of the man who made it.

## Commencement at Isla Vista

Along with their diplomas, members of the Class of '70 at the University of California at Santa Barbara received some knocks and bruises from the police. In February, major disorders culminated in the burning of a branch building of the Bank of America. In June, on the eve of graduation ceremonies, fresh disorders broke out. More than 600 young persons, mostly students but including professors and "street people," were arrested. Allegations of police brutality were so widespread and so well substantiated that the university chancellor called for an official inquiry. The captain of the football team was one of those beaten up. He was in his room in a dormitory favored by "jocks." "The door was busted open and about ten policemen came running in. One of them yelled, 'You like to throw bottles? Up against the wall, mother-fucker!' They began hitting us on the legs and stomachs with their sticks. . . . We didn't know what was going on."

The latest turmoil began when a grand jury returned indictments against seventeen young people in connection with the burning of the bank in February. Two of those indicted were in jail at the time of the arson—an alibi so convincing that charges against them were immediately dropped. This indication of sloppy law enforcement added to the resentment, which was further inflamed by a 7:30 P.M. to 6 A.M. curfew. At least half of the arrests were for curfew violations. A municipal judge dismissed 300 charges and criticized the police.

By all indications, the latest tumult was avoidable. The police blew up minor disorders into a major confrontation. An eighty-man detachment of the Los Angeles County Sheriff's "special enforcement bureau"—described by the *Los Angeles Times* as "among the toughest riot troops in the country"—was sent to Santa Barbara as a kind of expeditionary force. These bully boys lived up to their reputation. "It was a police riot from the arrival of the Los Angeles officers," said UCSB philosophy professor John Wheatley, a leading campus moderate, who was injured. The Los Angeles County Sheriff's detachment made the usual assertion that no more force was used than was necessary to make arrests. The manhandling in the jail was likewise defended.

The trouble at Isla Vista is a prime example of repression breeding resistance. Overreaction of this type does not always "radicalize" the community. At Kent State



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University it did not; there the townspeople are still sharply at odds with the university people. But the Santa Barbara police action, far out of proportion to the need for it, triggered a general reaction throughout the community and seems to have united faculty and students, including the moderates in the student body. In a week or so *The Nation* will carry an in-depth report on these most recent developments at Santa Barbara by Richard Flacks and Milton Mankoff, members of the sociology faculty, whose article on the bank-burning episode attracted wide attention (*The Nation,* March 23).

## The Klein Mission

One of the amazing features of the Nixon Administration is the fact that it is so blatantly public relations oriented, yet its publicity techniques are so clumsy that they cannot convince anyone with an IQ above 75 or so. Or if the citizen is not handicapped in this respect, he must be almost perversely oblivious of what is going on. Every White House move seems calculated to show contempt for the good sense and awareness of Americans.

The four-day "fact-finding" mission of a group of Senators, Representatives, Governors, and White House staffers in Indo-China was an outstanding example of PR work which a Madison Avenue trainee would be ashamed of. The VIPs were hand-picked to insure that they would report the war was going splendidly in all three countries (South Vietnam, Laos and Cambodia), the armies of which they visited in a single day. With only one partially dissenting voice, that of Sen. Thomas J. McIntyre (D., N.H.), the group gave the answers expected of them. The mission was conceived and led by Herbert Klein, and on its return he arranged for TV and press coverage on a stage in the White House press room. Mr. McIntyre was not included, and expressed his views later at a modest press conference on Capitol Hill.

The majority report stated that "all leaders that we met with agreed that, due at least in some measure to the Cambodian operation, the scheduled United States troop withdrawal can safely and surely proceed. We conceive and hope that in the coming months an acceleration of withdrawals may even become possible." The report also discovered noteworthy progress on the military, political and economic fronts in South Vietnam. All this hogwash could have been written in Washington without airlifting the eleven-man commission and Klein, their shepherd, to and around Indo-China. A young lieutenant summed it up when he commented, after looking over the list of commission members, "Kind of looks like the President has preprogrammed his feedback."

The House now plans to send over its own commission, a twelve-man bipartisan committee. It was instructed to "depart immediately" and report back within forty-five days. With good reason the House is worried, about Cambodia in particular, and this group will probably not turn in the farcical performance of the Klein group. But it contains only one dove, Rep. Augustus Hawkins, a Negro, and one moderate, Rep. Lee Hamilton.

What is really needed is an independent commission of distinguished citizens—people like E. O. Reischauer, J. K. Galbraith, Whitney Young, John Gardner, Leonard Woodcock (of UAW), Kingman Brewster, Mrs. Shirley Chisholm, distinguished members of the League of Women Voters, the National Farmers Union, et al. Or perhaps a committee of experts on Southeast Asia—men like John Fairbank of Harvard. Can one conceive of a greater public service at this juncture than the financing of such a commission? We have plenty of public-spirited foundations: all that is required is money and courage.

## No Magic in Vouchers

With OEO sponsorship a plan has recently been unveiled which proposes a "voucher plan" to pay for schooling. A check or voucher would be issued to parents which they could then apply to purchase education from any recognized school for their children. Presumably the voucher could be used at a private school of recognized standing if it would admit the student. In effect the "voucher plan" is an attempt to change the quality of education—that is, the learning of the children—through pressure from the payment system; in economic terms, it represents a "demand-side" pressure, seeking to affect supply and quality.

Unfortunately, experience in the health field causes serious doubt as to the efficacy of such efforts, especially without concomitant "supply-side" changes. As George Silver points out ("National Health: Insurance Is Not Enough," *The Nation,* June 8), in criticizing plans for a national health payment system without changes in health care supply, "lack of resources and the uneven distribution of what resources exist will make nonsense of any legislative effort that addresses itself solely to the question of paying for services."

There seems to be no evidence that merely providing poor families with a voucher to buy education for their children will produce better education. Indeed, it is a bit ironic that the current propounders of voucher programs have so much faith in this crude market mechanism.

Giving consumers the means to purchase educational services may be a valuable proposal, but if it is not to go the way of so many education innovations—from new panacea to last year's fad—attention must be paid to direct inputs on the supply side as well.

## The Flag Fetish

In the internal conflict over American entanglement in Indo-China, the flag has been converted from a symbol of national unity into a symbol of disunity and bitter antagonism. A small section of the peace movement has used the flag to show its abhorrence of the war. Some of these demonstrations have been respectful enough—flying the flag at half-staff, for instance. Others have been as outrageous as they are isolated, but however atypical, such desecrations recoil on the peace movement as a whole.

It was predictable that the malignant Right would take advantage of the opportunities afforded by the screwball Left, and so it has turned out. In some suburbs—not so much the affluent ones, where educational credentials are apt to be high, but those dominated by the lower middle class and the veterans' organizations—flag decals are proliferating on trucks and automobiles, and soon the



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commuter who has neglected to emblazon his car with the Stars and Stripes may find the tires slashed when he returns from his labors in the city. The flag has become an outlet for the hostility that has taken the place of neighborliness. The daily display of the flag on or in front of residences has spread to householders eager not to be found backward in patriotism—and what less expensive way of showing one's patriotism could there be?

For reasons that make no political sense, the callow section of the peace movement (the old can be callow, while the young need not be) has insisted on giving up possession of the flag, and with it the classic, enduring American tradition. They have yielded this potent symbol to the hard-hatted thugs and business interests that find it handy as a cover for self-interest, whether economic, emotional, or both. "The flag has become a partisan symbol," says Burt Neuborne, an American Civil Liberties Union attorney specializing in flag cases, of which, according to *The Wall Street Journal*, 100 are in progress, with more being added each week. "The pro-war people have adopted the flag as the symbol of their side. The anti-war people would like to have the flag symbolizing their activities as well." But in such a contest the pro-war people have every advantage over those who oppose the war. The anti-war people are beset by the flag desecrators, who get publicity unjustified by their numbers and importance.

Most of the money and entertainment talent is on the side of the home-front warriors who cloak themselves in the flag. A super-duper Fourth of July is planned by a group headed by J. Willard Marriott, the hotel man and friend of President Nixon. (He was chairman of Mr. Nixon's inaugural celebration.) Bob Hope and Billy Graham are co-chairmen. "So many people are talking adversely about America these days," Mr. Marriott says, "that we want to show that most people in this country love America despite her imperfections." A White House spokesman said the Nixon Administration had not endorsed this big whoopee, but *The New York Times* reports that White House office personnel give the committee's phone number to inquiring callers.

It should have been clear from the start, and it should be made clear now, that the people opposing a war in which the United States is illegally and immorally engaged, and which it is carrying on with a brutality unprecedented in American history, are the ones who are *really* trying to protect the flag from desecration. Mutilating a particular flag is the act of an individual, but the devastation of countries like the two Vietnams, Laos and Cambodia defiles the flag in the deepest sense. This is what the anti-war movement should proclaim.

UNREPORTED CONFERENCE

# 'LAW AND ORDER' 1970

**RALPH LEE SMITH**
*Mr. Smith, a regular contributor to* The Nation, *is the author most recently of the special issue, "The Wired Nation" (May 18). He is the author of several books, among them* The Bargain Hucksters *and* The Tarnished Badge *(both Crowell), and is at present working on a Ph.D. at Columbia University on the public regulation of the cable television industry.*

The three sessions of the Congressional Conference on Justice in America were held on Friday morning, Friday afternoon and Saturday morning, May 15 and 16, in a square, oak-paneled room in the Capitol Building. On my way there I passed a large group of nicely dressed, well-scrubbed schoolchildren on a tour of the Capitol. All of them were white and each wore a tremendous red-white-and-blue button reading "Think American." A guard was standing outside the conference room, a pistol and a set of keys on his cartridge belt. We chatted.

"Have you had any demonstrations here?" I asked.

"The job's getting harder," he replied. "Judge Green's ruling that they can demonstrate on the Capitol steps makes things harder. They didn't use to be abde to do that. You know, they had that demonstration out there on the steps, and there were Quakers there, and even some Senators and Representatives. It's hard to arrest *them*. They think they're immune from all legal action, but they aren't." He shook his head. "It makes the job harder."

Inside the room four long tables had been arranged in a square, with a stenotype machine for the recording stenographer in the middle. There were two short rows of chairs for spectators behind the north and south tables, and a single extra row behind the east table. The conference participants were to occupy three sides of the square, and members of the press the fourth side.

As each participant came in and sat down, a staff member of the Fund for New Priorities in America, the sponsor of the conference, lettered his or her name on a piece of cardboard and propped it up in front of the individual.

The Fund has been sponsoring a series of conferences among leaders of the intellectual community and Congressmen and government officials, on major national issues on which the government has seemed to take action that is seriously inadequate or actually in conflict with the nation's needs. Subjects of previous conferences have included the power of the military, the environment, and conversion of the economy from a war to a peace footing.

Little known to the public, the Fund and its energetic president, a New York lawyer named William Meyers, are familiar to Senators, Representatives and scholars. When the Fund chooses a topic that it thinks should be the subject of a conference, it confers with Congressional leaders who are known to have a special interest in the area. A list is prepared of persons most knowledgeable on the subject, and invitations go out. Most of the



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experts accept, coming to Washington from all over the country to participate.

Each conference usually consists of three completely informal sessions. A session begins with a five- or ten-minute "overview" of the problem area to be discussed, and the floor is then open to anyone who wishes to speak. Most of the experts attend all three sessions, and so do some Senators and Representatives. Other members of Congress drift in and out, listening for awhile, and tossing in ideas and thoughts. Previous conferences have been closed to the press, to give the participants maximum encouragement to speak freely; the purpose of the meetings has been face-to-face talk, not publicity.

The closed-door policy had produced rumblings about "secret" goings-on, but opening the Conference on Justice to the press created no great stampede of newsmen. A single wire-service man and myself, on assignment to *The Nation*, were the only journalists to attend the whole conference; the press table was almost always the most thinly populated area of the room. There was little or no actual coverage in the nation's news media.

This neglect hardly accorded with the interest and quality of the proceedings. The participants were probably the best-informed group ever brought together in one room to discuss the subject. I have therefore prepared this extended report of some of the highlights of a remarkable dialogue on an issue that is threatening to tear American society apart.

The conferees were welcomed by Dr. Arthur Larson, chairman of the conference, and by Rep. Claude Pepper on behalf of the Congressional sponsors. Sens. Philip Hart and Harold Hughes, who were attending Walter Reuther's funeral and could not be present, sent statements which Dr. Larson read. He then offered a few opening comments.

The theme of the morning's discussion, he noted, was "Law and Order," 1970: An Overview. Pointing out that "Law and Order" appeared in quotation marks on the agenda, he said: "Law for a long time was a rather untainted word and I wish we could keep it that way. Order, I don't know. I think it sometimes has been forgotten that a campaign slogan of von Hindenburg in his last campaign was 'Order we must.' "

There is, he said, a "well-known interplay" between unlawfulness, violence and illegality at the local level, and its practice on a national and international scale by a nation's leaders.

"There are many attempts to cut down on what we have considered as rights of the individual. Hand in hand with these are what some people regard as very threatening inroads into constitutional separation of power in this country, in the exercise of power by the President. Side by side with that is, of course, rampant illegality on the international scale, the invasion of Cambodia, which is so patently unlawful that you can't even get up a discussion about the legality of it. Then, of course, everything came to a focus in the same week that the last shreds of legality were torn away from our international conduct, when we saw carried to its final conclusion the kind of illegality we have on the domestic scene with the National Guardsmen [at Kent State], young people, shooting right into the bodies of other young people."

Richard G. Kleindienst, Deputy Attorney General of the United States, was listed as one of the participants in the conference, but he never appeared. Department officials present were Henry E. Petersen, Deputy Assistant Attorney General, and Donald E. Santarelli, Associate Deputy Attorney General. As Dr. Larson spoke, the faces of these two men, sitting together and to his right,

Punch

registered something less than pleasure. So did the face of G. Robert Blakey, chief counsel of the Subcommittee on Criminal Laws and Procedures of the Senate Committee on the Judiciary, and a former Justice Department official. The stage had been set for a collision.

The room remained calm, however, while Sen. Sam J. Ervin, Jr., of North Carolina, led off the discussion with a description of the District of Columbia Crime Bill, which provides for preventive detention of suspects under certain circumstances, and contains a "no-knock" provision, permitting a policeman with a valid arrest warrant to enter or break into a suspect's home without warning. Senator Ervin expressed indignant opposition to both provisions.

Seated on Robert Blakey's side of the square was Karl Hess, one of the more intellectually and sartorially unorthodox members of the conference. A former speech writer and chief campaign assistant for Barry Goldwater, Hess is now a contributing editor of *Ramparts*, a visiting fellow at the Institute for Policy Studies in Washington, and a self-styled anarchist. At the conference he was wearing well-worn high boots, dungaree pants and an unpressed dungaree shirt. When Senator Ervin finished, he raised his hand:

"Senator Ervin suggested that there is a question of



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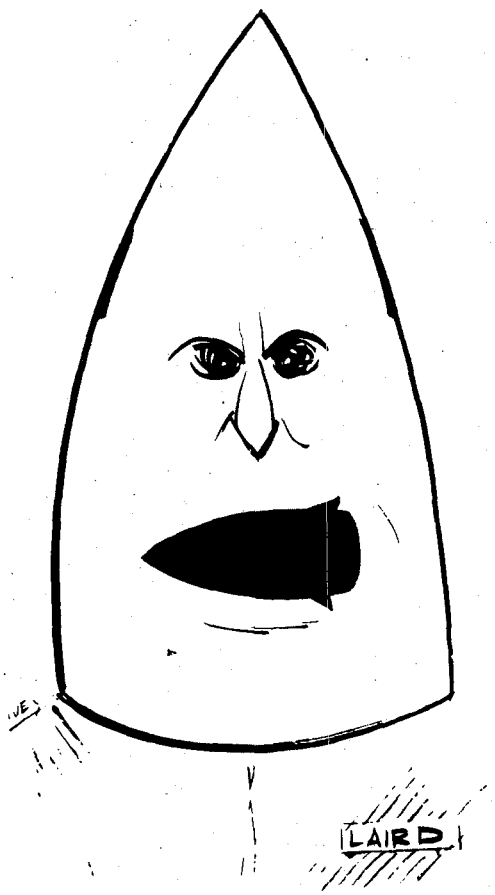
what kind of procedures are appropriate to the situation," he said. "It seems to me that the proper field of investigation is who are the criminals. You, yourself, Dr. Larson, suggested a useful gauge when you pointed out that in the case of the Cambodian invasion there was not even the possibility of a discussion, it was so illegal. It seems to me that in a proper hierarchy of values, the most enormous crime would get the most enormous and immediate attention."

Looking fixedly ahead, instead of at Hess, Blakey responded: "I would like to begin by making the observation that I think there is a good deal of hysteria loose in this country. People have lost their basic ability to discriminate between this situation and that situation. . . . Let's get a reasonable agenda of justice in America, and leave, for example, for another time, justice in Vietnam. If we are going to take up justice in America, let's take it up in orderly fashion, talk about kids on the campus or talk about kids in the ghetto or talk about crime in the District of Columbia."

Jerome H. Skolnick, professor of sociology at Berkeley and author of *The Politics of Protest* and *Justice Without Crime*, replied and also opened up a second front. "I really don't think these problems are that easily separable," he said, "but I would like to address myself to a narrower issue which, I believe, underlies many of Senator Ervin's remarks." The problem, he suggested, is that even if we have the correct laws, the police are unlikely to observe those that inconvenience them: "even if we don't have the no-knock provision, we have the problem that the police don't knock anyway. That is a very serious problem because if we are going to conduct this conference on the ground that the rules in fact influence police behavior, we are going to be conducting the conference on the basis of a reality that does not exist."




In addition, Skolnick went on, things are made even more difficult by the fact that the police lie. "The police will reconstitute facts in such a way as to meet legal standards, by and large. This is a very serious problem because this leads us to the question of . . ."

Face flushed, Blakey interrupted him. "Nonsense! The truth of the matter is that most of the police, most of the time, live up to the rule, and the problem is with the exception. If we are not going to focus on that kind of problem, that it is the exception and not a general rule that we are worried about, we are right back to the kind of hysteria which will lead this conference to go off in all directions simultaneously."

"May I say," Skolnick replied unhesitatingly, "that the exceptions may be widespread, and it would be very interesting to see how much time police give in general all over the country before they enter, even where you have provisions to the contrary. . . . I have never, and I have worked with the vice squad for six months, I have never seen the police give a warning. If they think they have got evidence inside, they knock the door in."

"I have worked with the FBI where we utilize an electronic megaphone and a stop watch, a megaphone to make sure the people on the inside heard, and the stop watch to insure a sufficient amount of time," Blakey retorted. "If the conference is going to leave the people with the idea that your limited experience with one police force in California can be generalized to all law-enforcement agencies, federal, state and local, it seems to me we are going to perpetuate hysteria."

"I can't allow the assumption that what Professor Skolnick has said can be dismissed either as sampling from one police force or as hysterical, to remain for one moment," asserted Edgar Z. Friedenberg, professor of education in sociology at the State University of New York at Buffalo, and author of *The Vanishing Adolescent* and *Coming of Age in America*. "The report, *Police Power*, for example, which is a carefully documented study and not of a single force either, establishes quite well and simply that the police lie. They lie habitually, continually and as a matter of common sort of standard practice, and they do not do so out of malice."

The reason the police lie, Professor Friedenberg said, is that they feel they have a professional responsibility to see that people do what they are supposed to do. Civil liberties safeguards, "that come from a different class of effete snobs anyway," tend to interfere with proper performance of this professional task. The police feel that their responsibility is to protect society from all the "disorder, misconduct, obscenity and irritation" that would be visited on the populace if nit-picking civil libertarian concepts of procedure were allowed to prevail in dealing with wrongdoers.

There is nothing new in this, Professor Friedenberg continued; the only new thing is that middle-class persons such as students and professors "are now getting the kind of administration of justice that used to be reserved



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for people too poor and unfamiliar with the process to defend themselves."

Deputy Assistant Attorney General Petersen joined in. "To the extent that there is present in this conference a concept that law enforcement is oppressive, I agree," he said. "I would resent it, were I handed a valid search and seizure warrant. I would resent being tried. I do not understand the purpose of due process and law to preclude all oppression, if by oppression is meant trying an individual for a crime he has committed, or arresting a person on a probable cause to believe that a crime has been committed."

Robert Jay Lifton, professor of psychiatry at Yale, entered the dialogue. "I want to respond to Mr. Blakey's call for law and order here in the conference and take exception to it very early, and present another spirit that I think would be far superior for our purposes here," he began. "When Mr. Blakey says we should take up things seriously, in a separate fashion, carefully. . . ."

"At least in an orderly fashion," Blakey interrupted.

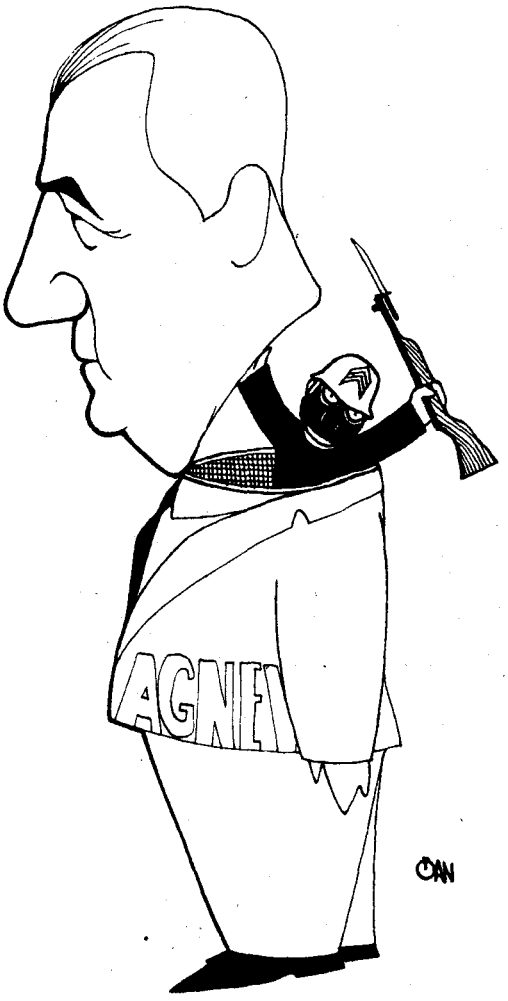
"Let me finish, please," Lifton responded firmly, and picked up his thought in mid-sentence. ". . . in this orderly way, and separate, for instance, Vietnam from, say, student unrest or protest, or problems in our cities, or in our society—this to me is simply not speaking to what is happening."

Lifton said that he had recently been reading the books by Seymour Hersh and Richard Hammer on the tragedy at My Lai. "I defy anyone who reads these books carefully and takes in what they have to say, to look upon Vietnam as having any degree of lawfulness or justice in terms of our participation there, whether at My Lai specifically or Vietnam in general. I think once one recognizes this, one has to speak to a general crisis of legality and justice throughout the country. One has to recognize feelings among the young, and not only among the young, that the whole issue of justice in this country becomes tainted and complicated by a fundamental injustice in which we are participating. I wish to set that perspective for our further discussions."

Richard Falk, professor of international law at Princeton, said: "I would like to re-emphasize Dr. Lifton's comment and also to disagree very sharply with the tone and substance of Mr. Blakey's position on these issues.

"It seems to me that the fundamental political fact in the United States at this time is a crisis of legitimacy that affects the very center of government. When one feels that the rulers of society are not according respect to constitutional rules on matters as vital as the initiation and conduct of war, I think that affects the entire climate within which a subject such as justice is considered. The fact that such a climate exists, and shakes the confidence of many people in the possibilities of any kind of fusion between law and justice, seems to me the only plausible place to begin a conference of this sort.

"The credibility of the government's plea for submission to law by discontented groups seeking to change society, when that very government is unwilling to abide by any comparable submission to legal procedures, seems




to me to be at the very heart of what troubles so many Americans at this time."

Seated next to Arthur Larson was Hardy Dillard, a judge on the International Court of Justice at the Hague. Larson asked him if he had any comments. "It may be," Judge Dillard replied, "that any talk about the International Court of Justice would qualify for that remark someone made about a philosopher, that he was above the battle and beside the point!" The United States, Dillard noted, reserves the right to decide which cases, involving this country, the court will be permitted to hear and decide. "The posture of the United States with respect to the World Court is certainly not one that induces any kind of confidence," he said. "If we are going to talk about law and order nationally, we ought to be willing to commit ourselves to law and order internationally."

Coffee-break time had come. Not the least interesting sight during the intermission was Robert Blakey buttonholing Jerome Skolnick and engaging him in a spirited discussion near the coffee urn.

The second part of the morning agenda called for a discussion of the nation's law-enforcement machinery. An overview was given by Lloyd N. Cutler, former executive director of the President's Commission on the Causes and Prevention of Violence. The commission, he said, had had many discussions "very much like the first hour of this conference.



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"In the end," he stated, "we concluded that the basic problem was to make violent conduct, that is, illegal violence, both unnecessary and unrewarding.

"To make it unnecessary, we felt that the political and social institutions of the country had to be far more adaptable in taking steps to listen to deeply felt grievances and to correct social and political injustice of every kind, including the injustice of many aspects of the law-enforcement system.

"As for making illegal violence unrewarding, that turns largely on achieving a better criminal justice system than the one we have today. The criminal justice system is very much underfinanced and very much undermanaged. It is really a misnomer to call it a system at all. In these respects, we felt that it is simply typical of the basic weaknesses of urban government in this country."

He ticked off some features of the "non-system":

¶The amount that America invests in the criminal justice system—for all police, all courts, all corrections, federal, state and local—is less than three-quarters of 1 per cent of the national income, and less than 2 per cent of all federal, state and local tax revenues. That is barely more than we spend on the space program, and less than we spend on agricultural subsidies. Yet "this is the issue that decided the last election, and is going to decide many more elections to come."

¶"In any city today, the shabbiest, the most overcrowded and the most inefficient public facilities of all are the police stations, the courthouses and the jails." This antiquated setup is now dealing with some 9 million serious crimes per year.

¶These 9 million crimes produce arrests in only 12 per cent of the cases, and conviction in only 6 per cent —including a large number of cases in which the defendant agrees to plead guilty to a lesser offense. "Such a 'system' does not deter, does not detect, does not convict, and does not correct."

¶The "system" consists of myriad independent entities, each of which tends to blame the others for what goes wrong. There are no common budgets, and in most cities no agency takes a general view of all the components of the system. "It is probably the worst and most poorly managed bureaucracy of all the bureaucracies we have."

Out of the Violence Commission's recommendations, Cutler said, there grew an agency called the Law Enforcement Assistance Administration (LEAA). It was to be a vehicle through which the federal government could pump money into local criminal justice systems on a matching-grant basis. The original plans for LEAA called for $1 billion of federal funding by the third year of LEAA's existence. In this, its second year, it got only $250 million, of which only $7 million was earmarked for research into all aspects of criminal justice in America.

Henry S. Ruth, Jr., director of Mayor Lindsay's Criminal Justice Coordinating Council in New York, pointed out that states and cities are poorly equipped to receive and spend this federal money. Many state legislatures have been unable to produce the 40 per cent of matching funds that the federal statute requires. Some states have had funds in hand for as much as eight months, and have not spent them because they have no machinery for making the expenditures and no planning mechanisms.

Congress set the $7 million ceiling on the amount that LEAA can spend on research. This is a "disgrace," Ruth said, because at all levels of government there is an "appalling lack of ideas" on how to spend funds so as to bring about real gains. "I think a lot of money already spent has been wasted. You can look at the statistics cited by Mr. Cutler and see that, if we just add a little bit of money for current police, current courts and current corrections, we are not going to be doing anything about the problem at all. We will only aggravate it. . . . We have to get off this platform of shouting for more and more money, and think of ways in which states and cities can be prepared to spend it well.

"I would like to see more people talk about the need for alternatives to the criminal process. We just can't keep putting more cases in the courts. The only way the system has survived is by not paying any attention to its ideals. And that is the crisis today."

Rep. Claude Pepper, a member of the Committee on Crime of the House of Representatives, said that testimony before his committee had convinced him that there were many viable ideas in the field, and that the urgent issue was more funding. But Wes Pomeroy, former associate administrator of LEAA, sided with Henry Ruth. "We don't know what causes recidivism," he said. "We don't know how to correct people. We don't know how to rehabilitate them. We have a very confused idea about the role of the police, which is very basic and primary and right at the root of the problem."

Progressive police chiefs, middle management in police forces and patrolmen, he continued, "have been waiting for something good to happen for a long time. Now they see a process that is more concerned about who sends out the money and who gets it than what it goes for. They are not getting the leadership out of Washington that they really ought to get."

Some of LEAA's failures, he added, have structural and political origins. The organization is headed, not by an individual but by a troika, an arrangement that "flies in the face of every good administrative principle in the world." Pomeroy was a member of the first troika appointed by President Johnson to run LEAA. The three men worked well together, "but that was just a lucky circumstance, and it may not happen too often again." In addition, the administration, through Atty. Gen. Ramsey Clark, gave them wide latitude. "Use your discretion and get the thing going," was the only instruction Clark gave them.

Under President Nixon and Attorney General Mitchell, however, things have changed. LEAA has been made "an arm of the Administration," and its activities are subject to policy directions with which many in LEAA cannot agree. "It is showing up in the organization," Pomeroy said. "You are having bright guys leave. You have two in this room who have left. And you are going to have more."

Robert L. Emrich, assistant professor and assistant dean of the School of Criminal Justice, John F. Kennedy



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University, Martinez, Calif., added another consideration: "if you want to solve a problem, as we want to solve the crime problem, you have to know what the problem is. To know what the problem is and to see whether you are getting results requires one very simple element. You need some data. We literally have no data about crime that are worth much of anything."

What, for example, he asked, is a "serious crime"? By what logic has California tripled the length of sentences for convicted persons over the past ten years? There is no evidence that it has had any effect in reducing recidivism, or any other effect, apart from tripling the cost to California taxpayers.

We have no data on the drug problem, an issue so serious that it has the potential for complete social devastation. There has so far been only one study, poorly financed, on the association between drugs and psychological damage. At the same time, a sampling of Los Angeles physicians over an eighteen-month period showed 2,000 cases of persons seeking such help because of the use of marijuana, and 10,000 cases seeking such help because of the use of LSD. The rate of persons seeking help rose during the period of the study.

LEAA, Emrich said, is heading for the same kind of trouble with Congress that every other domestic program for curing our urban ills has encountered. LEAA will spend large sums; it will have no evidence that the expenditures have lessened the problem; and within a few years Congress will revolt against further expenditure.

St. Louis Post-Dispatch

*"It Didn't Look Like a Boomerang"*

To the long list of problems, Martha Jenkins, chief counsel of the Lawyers' Committee for Civil Rights Under Law in Cairo, Ill., and former city attorney of Fayette, Miss., added the issues of race and the nation's poor.

In the various state and district law-enforcement agencies and commissions, which decide how the federal and state matching funds are to be spent, blacks are poorly represented or are not represented at all. The Mississippi State Law Enforcement Agency, with a membership of some twenty to thirty persons, includes one black person—"and that black person happens to be an Uncle Tom." In Illinois, the Land of Lincoln, things are no better. There are no blacks on the local district law-enforcement commission in the area where Mrs. Jenkins works and, in addition, "there is no representation of other significant elements of the community."

"If you want to find out what programs people think might deal with their interests and problems," said Mrs. Jenkins, "then these people have to be represented." At present, "members of the commissions don't have to know various groups in their communities, and don't want to go and find out about them. As a result, most of the money allocated by the districts goes to things like better equipment, shinier badges and guns, new radios and new cars. If the community were allowed to participate in the discussions of what the priorities are to be, I am sure that a lot more constructive ideas would emerge."

Monroe Freedman, professor of law at the National Law Center, George Washington University, and former chairman of the Washington, D.C. Civil Liberties Union, returned to the problem of police perjury and crime.

One group in the society that knows a lot about police crime, but says and does little about it, Professor Freedman stated, is the nation's prosecutors. He cited an article written by a New York University professor who was a former prosecutor, which said that every prosecutor knows police perjury is commonplace. "I brought that quote to the attention of a former prosecutor on my faculty," Freedman said. "He first denied it, and then he said: 'Oh, I know, he is talking about perjury regarding technicalities, like unlawful arrest and unlawful searches and seizures.'

"We know of cases in the District of Columbia, not just perjury cases but police violence cases, that have gone untouched by the prosecution. This is relevant to our concern, not only because police crimes are crimes but also because police criminality breeds criminality. The Riot Commission [Kerner commission] listed four categories of precipitating causes of riots, and these categories were divided into major sub-categories. Sub-category No. 1 of category No. 1 was police abuse."

Professor Freedman explained why prosecutors do so little about an abuse about which they know so much: "The prosecutor must depend on the police for his investigation, for his building of the cases, and for his testimony. He must maintain a close working relationship with the police. This is, as I say, a built-in conflict of interest.

"I think that any law-enforcement assistance act which



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does not take this into account is seriously deficient. One of the most important things for us to look toward is an independent arm of the prosecutor's office, or an independent prosecutorial arm, that will police the police without fear of retaliation in the general run of cases that the prosecutor's office has to handle."

At this point the conference adjourned for lunch. The group passed the guard at the door, threaded its way through the mobs of touring schoolchildren, left the Capitol, and headed for a downtown restaurant.

## SECOND SESSION

The theme of the afternoon's discussion was The Effects of "Law and Order" on Justice: Political, Psychological, Sociological Implications. The overview was given by Professor Skolnick, who discussed four major issues:

(*1*) *"Routinized Perjury."* Policemen, he said, have two very different concepts of law. One relates to the substantive law of crimes as committed by members of the populace, and the other to criminal procedure.

"Policemen are much more concerned about substantive criminal law and its violation than they are about criminal procedure and its violation. They regard criminal procedure as a set of obstacles, a set of impediments in their ability to enforce the substantive criminal law. As a result, there are a variety of subterfuges that are used by the police to evade the requirements of due process."

As an example, he cited police testimony in drug cases, as described in a recent article by Martin Mayer. Narcotics users and pushers used to believe that if they were not caught with drugs on their persons, they wouldn't be convicted, so they would throw the envelopes away if policemen approached. The police found this easy to surmount; they would simply testify that they had seen the accused parties throw the envelopes away, whether this was actually true or not. Users and pushers then stopped throwing the envelopes away, thus requiring police to make illegal searches to find evidence. This did not deter the police; they simply made the illegal searches, then continued to testify that they had seen the accused persons throw the evidence away. Judges accustomed to such testimony and agreeing with the policemen's goals, continued to convict. "There are practices that develop within the police department," Skolnick said, "that nasty people would call routinized perjury."

(*2*) *Dissemination by the Police of False and Misleading Ideas about Crime.* Police literature, from FBI materials down through police guild magazines, spreads false ideas about the causes of civic discontent and strife. The Kerner commission, for example, received the following testimony from J. Edgar Hoover on September 16, 1968: "Communists are in the forefront of civil rights, anti-war and student demonstrations, many of which ultimately become disorderly and erupt into violence."

Numerous studies, said Skolnick, refute this theory, yet it is reflected throughout police literature. Therefore, police called in to control a demonstration feel that they face an enemy. They have no true idea of what the protest is about and why it has occurred. They have been indoctrinated in the "rotten-apple" concept, that a few conspiring agitators are causing all the trouble, and that if these persons could be weeded out, peace and bliss would return to the community and the nation.

(*3*) *Drug Policy in America.* The U.S. Government, Skolnick said, "is itself responsible for a majority of crimes in the streets." The illegal status of drugs, in the face of widespread use, forces up the price, creates a criminal traffic, and causes immense numbers of persons to commit crime to get the money for the drugs they want or need.

In the state of California alone, there were 50,000 arrests for use of marijuana in 1969. The social costs of such laws are enormous. Young people have been told "lies, literally lies" by government sources, about the evil effects of pot. They learn from personal experience that its effects, as nearly as they can tell, are not those described by government propaganda. Actually, "I would say that a kid today on a college campus who hasn't tried marijuana *is* very uptight. There is something wrong with him, because the peer-group pressure is so great that he cannot fail to try it." The situation is therefore "a fundamental source of alienation of youth."

(*4*) *American Foreign Policy.* "Finally, I would say that the thing that has alienated youth in this country more than anything else is our foreign policy stance. The kids want to know why they have to die for nothing whatsoever. They have to either kill or be killed, and they want to do neither, and they are absolutely powerless."

Robert Jay Lifton offered what he called some "psycho-historical" thoughts. People, whether they be in government, or potential backlash types, or liberals, or radicals, share today "a profound sense of historical dislocation." The speed of historical change, and of change in institutions, cultural forms and values, has proceeded so swiftly as to create deep disturbance and confusion.

One impulse in response to confusion, he said, is to "simplify, clarify and suppress." It can lead to a closed system of ideas, an impulse to control the milieu, and "total manipulation of the government under the name of law and order.

"In My Lai and to some extent at Kent State, we see the use of a police or military power to protect illusion, because truth or historical actuality became too disturbing. In My Lai the illusion we were protecting with our massacre was the illusion of our mission in Vietnam being in some way moral, preserving democracy or resisting an outside force. There were accidental elements at Kent State, perhaps, including a badly trained National Guard group, but some of what happened there and is happening at other places has to do with protecting the illusion that we are an orderly, lawful country and we must resist and put down the efforts of unlawful, troublesome protesters.

"So, the protection of illusion can lead to the most extreme form of totalism, the rule of death."

Karl Hess now engendered a major set-to. Holding a clipping, he said: "My concern is specifically over such things as I would like to read now, a quotation which I am told is from Mr. Santarelli, one of the Justice Department's representatives here, and which seems to me to be summing up the sort of problem that we should be attacking." Hess read two quotations:

"What we need in this country right now is a good dose of martial law."



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"Frankly, we don't give a damn about an individual's civil liberties. We're out to do one thing—prosecute criminals."

"Who said that?" Henry E. Petersen, Deputy Assistant Attorney General, demanded.

"Mr. Santarelli," Hess replied.

"Do you have a citation for it?" Blakey joined in sharply.

Hess referred to the source—an editorial in *The Advocate,* student newspaper of the George Washington University National Law Center, which appeared November 3, 1969.

"Before we go any further," Blakey said angrily, "just as a matter of credibility, I would like to ask the supposed author if he said it, because if he didn't say it. . . ."

"The person who heard it is here," Hess said.

"I do not recall making those statements in those words," said Santarelli. All heads turned as Hess looked toward the row of chairs behind Arthur Larson and said, "Do you recall hearing it?"

"Yes, I do," a voice replied. "Mr. Santarelli said it to me."

"Please state your name for the recording secretary," Arthur Larson interposed.

"Craig Scott Miller." (Although he did not identify himself further, Miller is editor in chief of *The Advocate.*)

The room was entirely silent as Miller, a good-looking youth of about 22, rose and addressed Santarelli. The stenographic transcript reads as follows:

> *Miller*: I came into your office to apply for a job in the Justice Department, and during the course of my interview we got into discussion about civil liberties, and I was quite disturbed when I left your office because I am not one who generally goes along with most of the rhetoric I hear from the radicals, and when I heard that from someone at the top of the Justice Department, I was really shaken by that interview.
>
> Along with that very comment, you said you didn't have much respect for the Supreme Court, that you thought the defendant in this country had too many rights already, and the job now is to take some of them away, to shorten trials and to cut out the technicalities and so on. It was my view that the problems in the country . . .
>
> *Santarelli*: Incidentally, these later comments are more accurate than the former comments. We did discuss this problem.
>
> *Miller*: But this quotation is really the one that shook me.
>
> *Santarelli*: I do not recall making that statement in those words.
>
> *Miller*: It was absolutely shocking as a law student especially to hear someone high in the department telling me this.

The reaction to the dialogue was diverse. Deputy Assistant Attorney General Petersen said that whether Santarelli did or did not make such statements "doesn't concern me a great deal," since Justice Department personnel enjoy great professional independence.

Lloyd Cutler objected to the whole discussion, saying: "Let's get on to something more serious than whether or not Mr. Santarelli said or did not say something. Let's all assume we are all honorable men."

"I must certainly disagree with that," Professor Friedenberg rejoined. "The actual point of view of the Justice Department or its representatives is a highly germane fact. And I am certainly not prepared to assume that the personnel of the government or anyone else are honorable men."

Chicago Sun-Times

"I believe that the philosophy of the Justice Department is very much at issue here," said Michael Pollet, an attorney in many civil liberties cases. "Indeed, I believe the Justice Department as it is presently administered is part of the problem. Its philosophy plays a great role in the alienation of the youth today and in the disrespect that the law now receives. If 'law and order' has become a symbol of repression, it is due to the philosophy of Mr. Mitchell and the Justice Department."

As in the case of the discussion of the role of the Southeast Asian war that had occurred in the morning, this dialogue reflected deeply felt divergences between the academic persons and the government officials present. Neither, of course, convinced the other, and the discussion moved on to other topics.

Mrs. Martha Jenkins described how law, order and justice relate to one another in Cairo, Ill., the community in which she runs a civil rights legal office.

"We opened our office there in October 1969. Between March and December of that year a black movement was organized in Cairo.

"There were some eighty-six nights of white sniper fire into the black ghetto projects. There was a great deal of



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violence. The blacks were not able to hold orderly marches. There was no chance for the blacks to participate in government at any level. There are no blacks in the city government. There are no blacks in the fire department. There are no blacks in any positions except janitorial. Local employers don't hire blacks. Rather than hire a black, they will take people from across the bridge in Kentucky.

"Cairo is a very poor and incredibly racially polarized town. When we got there, a lot of blacks had been arrested, either for trying to march, or for trying to engage in peaceful, orderly, constitutional modes of expression. A number of blacks had also been arrested on various regular criminal charges, not necessarily because they had committed the crimes but because they were movement leaders.

"Our first job was to take care of these criminal defense cases. When we went to the courts, we found that the juries were all white. We stopped trials for a month. The juries do now include, not an adequate number of blacks but at least some.

"We tried two criminal cases, and in each of these cases the policeman's story was so preposterous that even with a majority of whites on the juries we won acquittals.

"When the establishment of Cairo saw that the black-movement people were going to be represented, that someone was going to raise issues on their behalf, that blacks couldn't be talked into copping a plea as they had before, the state's attorney voluntarily dropped something between seventy and 130 criminal prosecutions of blacks.

"But the state's attorney, who is the equivalent of the D.A., still refuses to take complaints by black people against white people. If you ask black people to go through the justice system, you are asking them to go to a system to which they have no access and that does not exist to help them.

"As for political avenues of change, about a year ago the Illinois House of Representatives sent an investigative committee to Cairo. They made a very good report on racial and economic conditions, and recommended changes to the Governor, to the state legislature, and to the local politicians and people who run things. They returned to Cairo, and on May 15 issued a report saying that not one thing had been done about any of their recommendations.

"I want to say something else about the courts. We have taken cases to federal courts—cases, for example, challenging the all-white make-up of the housing authority, challenging segregated public housing which they admit is segregated, challenging the all-white make-up of several boards and commissions, challenging the lack of due process in the expulsion of black students from schools for behavior for which white students are not expelled or even suspended. We filed these cases back in October.

"The federal judges involved have fine reputations as judges and men. I am sure they are good men, and I am sure they are not doing this on purpose, but I think when they feel there is an unpopular case filed in their docket, the longer they hang it up, the sooner it will go away.

"On the cases filed in October, the judge allowed the defendants until January 1 to answer. On January 1, instead of answering they filed a motion to dismiss, on highly technical grounds. The motion to dismiss never got ruled on until May 1, and in the meantime when we tried to make discovery they said no, we don't want any discovery taken until motions to dismiss are filed.

"How can you look on these things, politicians, courts, juries, police, as available modes of social change when this is what happens when you try to use them? The black community there is still trying, but I don't know what the answers are. The channels of social change don't work.

"I have just one other thing to say, and this is probably the most frightening part. The good people, the people respected in their communities, all over Illinois, they don't listen either. For example, we are trying to raise funds to keep our civil rights law office open, and we talked with the missions committee of one of the major church groups. Their chairman said: 'I believe in majority rule, but I believe that once the majority has ruled you just can't let people go into courts and overturn these laws every couple of months, because you are not going to have any respect for law and order and you are not going to have a stable society.' "

After Mrs. Jenkins' comments, the meeting adjourned briefly for a coffee break. During the intermission, Associate Deputy Attorney General Santarelli put three items at the place of each conferee around the table—a Justice Department press release defending its efforts to secure no-knock laws, a paper defending their constitutionality, and a speech by Deputy Atty. Gen. Richard G. Kleindienst defending pretrial detention.

A number of other interesting statements and comments were made during the balance of the afternoon, but perhaps the most impressive was the description by Mrs. Patricia Wald of the problems of certain children in the public school system of the District of Columbia:

"I am an attorney with the Neighborhood Legal Service [an organization financed by the Office of Economic Opportunity to provide legal services to the poor]. We do a fair amount of juvenile work. My experience leads me to believe that we are really losing more of the battle every day just in juvenile crime problems than we are winning by whatever progress we are making with the adults here.

"Every day you can walk into the District of Columbia schools and you can almost pinpoint large numbers of kids who are really foredoomed or destined to some sort of illegal criminal activity, and most of them don't have a view on Cambodia either, so I cannot attribute it exclusively to that.

"We represent many of these kids in school suspension hearings. They first show up with all their problems in the school context, which is the first official society organization they come into contact with.

"You can see it written right down there, the fact that the kid is either slightly mentally disturbed, or that there is at least evidence of it. He is acting out. He has had several incidents of violence right within the school. The response is, 'get him out of our schools.' Never mind the fact that by suspending him we put him out on the streets; he does not go back to any school because we do not have any facilities to put him in.



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"There is not a single place in the District for Columbia to which you can refer a juvenile, and no psychiatrist will see him. There is not a single residential treatment facility in the entire District of Columbia for juveniles.

"We are really pushing these kids out of society. Very often the same kids we represent in the school suspension hearings, we get back in at the juvenile court door.

"The kids we see are profoundly cynical of the system of justice. Very often they try to con us, their lawyers, as much as they attempt to con everybody else. Three-fourths of your problem is to get a truthful story out of your client to begin with. They have very little fear of perjury in the courts or anywhere else. I think if I were they, I would feel the same way because it has been my experience that there is not a single helpful thing in the juvenile court system, at least in an urban center like this.

"I think research is fine, but I have sat on one crime commission and have been a consultant to three others, and the answers are always the same. After all the research has been conducted, they always say that we need more community facilities, more job-training programs, more special services. The answers, I think, are there, but there is no national commitment to them.

"Last week one of the clerks of the juvenile court told me that a boy in a juvenile court cell had slashed his wrists. They were sutured, and he was returned to his cell. He took the stitches out. His wrists were resutured. He took them out again. So they put him into St. Elizabeth's, along with adult psychiatric offenders, in the John Howard Criminal Pavilion.

"I think that despite everything we have talked about today, we will continue to lose the battle until we really put our resources and our commitment into the area of the juvenile and really follow through."

## THIRD SESSION

When the conference reconvened on Saturday morning, neither Mr. Blakey nor the two representatives of the Justice Department were present. Henry Ruth, director of New York City's Criminal Justice Coordinating Council, scheduled to give the opening "overview" statement, drew a laugh when he prefaced his remarks by saying: "The one dominant thrust of yesterday's session was the camaraderie of outrage!"

Providing some historical perspective, Ruth noted that our system of criminal justice is actually very young. "When the Bill of Rights was written, there were no such things as police departments. There was no such thing as probation or parole until this century. There was no such thing as juvenile courts until this century. On the matter of illegal police procedure, if we look back just forty years, we find that a general method of law enforcement in the cities was for an officer to go down the street and pick out the biggest guy and beat him up and establish his authority on that street.

"I think that what has to be done is to look at the police as an organization, and as a group of individuals recruited mainly from a class which hasn't participated in the affluence of America as much as the middle class generally. If we are going to try to do something about police problems, then the community and its political leaders have to tell the police what their role is in society."

At present, said Ruth, the system of criminal justice is performing numerous functions that should properly be performed by other social agencies and facilities, and this is so because these needed agencies and facilities either do not exist or are entirely inadequate.

"The police are the only social service agency available from 5 P.M. to 9 A.M. twenty-four hours a day, including Saturday and Sunday. They are finding that up to 80 per cent of their time is spent on noncriminal duties, on being a social service agency for the city. The police spend very little time on law enforcement.

"The same is true with the court system. The courts are crowded because society has not done enough about its social ills. Instead, it has made these social ills crimes.

"I don't think the criminal justice system has ever had a chance, and it never will get a chance until we get these things out of the category of criminal justice and out of the criminal system. I think this is what people ought to be screaming about."

One suggestion, first made by Wes Pomeroy at the Friday afternoon session and taken up again at the Saturday session, was that LEAA be removed from the jurisdiction of the Justice Department and put under non-prosecutorial civilian direction. Arthur Larson suggested an independent status for the agency similar to that of the National Science Foundation.

The morning brought a new crop of ideas and controversies, but its highlight was a long, informed comment by former Atty. Gen. Ramsey Clark on the theme of justice in America. Its tone was markedly different from that of comments made the previous day by Justice Department officials. It created much discussion among the conferees at the remainder of the session and after the conference was over. A number of persons suggested that it should be published. It is reproduced here in part.

# The Law and Moral Leadership

## Ramsey Clark

You can't substantially control human conduct in mass, urban, technologically advanced societies through the processes of criminal justice. To think you can is a tragic mistake. Just in the area of more conventional crime, the process of criminal justice doesn't achieve one conviction for every fifty serious crimes under FBI definitions in the United States today. . . .

The best the law can do, the best the system can do, is set some general goals. The law has to provide moral leadership and that is one of these easy phrases. What does it mean? I think we know what it means. I think if the law doesn't say that we stand for justice; that we will pursue it to the extent of our human capacity; if it doesn't provide moral leadership, there is no place that is likely to provide moral leadership.

If the law is to provide moral leadership, the law can't act immorally. The law constantly acts immorally. It acts immorally through what we call over-criminal-



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ization, saying we are going to prohibit things we know we can't prohibit. It acts immorally in the very system of due process. Does anyone really think that electronic surveillance isn't immoral? What you are saying is we have to be immoral because we can't protect ourselves any other way.

The same is true of preventive detention, no-knock laws and things like that. But we can't admit that as a society, and we can't practice that. We have to say that somehow or other we can act morally and protect ourselves and survive. If we don't then we are in the jungle. . . .

We are in a real crisis. To me, among the things we have to do is first make the science of institutional change and institutional creation our first order of business. We have got to diffuse power. People have to be able to effect things that are vitally important to them.

Today, the average person is utterly helpless to alter things that are critically important to him. . . . So, we are going to have to find ways and there are ways if we apply ourselves. We have eminent skills. We don't release half the energies of our people.

Just think of the power in the millions that are on relief in New York to contribute to the human condition if we find ways of releasing those energies. They have it still. They have the capacity if we work with them. Not that many are lost because of the crush of what we have done—and I say we. . . .

You watch the bulldozers plowing up the last park in your place where you could take the kids and throw a ball or something, and you can't do anything about it. You watch the inhumanity of the young men going off to kill and be killed in a war that boggles the mind because obviously violence is an international problem solver that is no longer acceptable. It never was moral, but it is intolerable now because we just can't go on with these little flare-ups all over the place without blasting ourselves off one time. . . . It may be the one good thing to come from Vietnam was that in time it showed us that violence as an international problem solver can't any longer be utilized.

We can create new institutions that can bring people some voice in things that are important to them, in the way their garbage is collected, the way their schools are run, the way the police and the courts are conducted. Things like that. . . .

Next, we have to change human attitudes. How do you do that? We have to condition violence from the people's character. It can be done. It has to be done, because we are all up against it. When there are violent people, others will be affected by it.

There are efforts going on now to find out how you go about purging violence, purging racism. . . . We just have to learn to be very introspective and learn as individuals how to purge violence and fear and racism and qualities like this from our being.

I think the young people see this. I think they will tend to change very rapidly. They will have to change very rapidly. I think they can. But the essential thing, you have to work through institutions in mass society because that is the only way that you can make the differences that have to be made. . . . Institutions change today at the leisurely rate of the 19th century and that is terribly inadequate.

We can't wait for new leadership in institutions. We don't have that much time. . . .

This is where communication comes in and this is where dissent comes in and this is why, in our time more than any other, the need to hear every point of view is so essential. The principal catalyst in the alchemy of truth has always been dissent. Dissent is a voice of powerless people. If they had power, they wouldn't be dissenting. They would have done. Somebody else would have to dissent. . . .

I think Resurrection City showed me more clearly than any other confrontation of our time the great need to hear. It was a unique illustration. We had really poor people come from many walks of American life, from urban slums and rural poverty, and they came to Washington and they were given a permit to camp for many weeks on the Monument grounds.

America was outraged. It didn't want to see those poor people on the Monument grounds because poverty in the broadest sense is very ugly. Its health is terrible. Its mental health and physical health. It is helpless and frustrated and sick. We didn't want to see it. Keep it in the ghettos out of sight and out of mind. If we can't bring ourselves around to wanting to see it, then we will never end it. . . .

The second thing we learned from Resurrection City . . . was that the poor people—I use that term as being the people who suffer the injustices in the broader sense in America—know what the problems are and tend to know how to solve them. . . .

Where does truth come from? It comes from where it is. The poor people came to every major department in government and told the leadership in those departments


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things that leadership there didn't know and couldn't have found from its own experience.

If we can listen and learn, we can find the truth that way and address ourselves to it, but this is a very complex situation. We have to strive to simplify our lives in every possible way because the numbers boggle the mind. Man is a very inefficient creature. He can do scientific things because that doesn't involve human relations, but he is a very inefficient creature. . . .

The anxieties that pervade areas of poverty, the high schools and the slums were turbulent in the "thirties" but nobody cared much because all was peaceful out where our children lived, you know. Now . . . Park Avenue won't be quiet while Harlem isn't, and Beverly Hills can't live in the domestic business while Berkeley is raging. . . .

We have to be willing to reform very quickly. Just a little thing like 40,000 police jurisdictions. Absolute absurdity. We have to get that down to a couple of thousand if we expect efficiency and effectiveness and we have to get it down very quickly. . . .

The federal Constitution itself will make very little difference, nor will federal enforcement. We shouldn't fool ourselves about that. . . . To solve the problems of all our people, we have to get down where the people are. We have to involve them and we have to move very massively. . . .

Discrimination in health in America is incredible. We have whole groups like the natives of Alaska with a life expectancy of 33.4 years because we don't care. We know we can go in there and increase their life span and their opportunity and if we don't, we will suffer for it just as they suffer by dying for it. That is all I have to say. □

'BENEVOLENT NEUTRALITY'

# SEGREGATION BY TAX EXEMPTION

**REESE CLEGHORN**

*Mr. Cleghorn edits* South Today, *a monthly digest published by the Southern Regional Council. He is the author, with Pat Watters, of* Climbing Jacob's Ladder *(Harcourt, Brace & World).*

The Nixon Administration seems to have made up its mind about the South's new academies of segregation. It has adopted toward them a policy of "benevolent neutrality," that being an attitude something more affirmative than "benign neglect." For months the Justice Department, acting as lawyer for the Treasury, had been opposing a group of black Mississippi parents who seek to eliminate the tax-exempt status of private schools established recently because of public school integration. Justice at first argued simply that the black parents did not have legal standing to bring such suits. But on May 16, in the Washington federal district court, the Department shifted to a substantive argument, contending that tax exemptions for the schools do not constitute support of them. If the district court accepts this view and the Supreme Court upholds it, a one-room, nonaccredited school, situated in a warehouse and teaching white supremacy, will be able to claim tax-exemption as an institution of general benefit to the public.

The case was brought by black parents in Holmes County, Miss. They argue that the new segregated private schools do in effect receive a government subsidy, since their tax-exempt status permits donors to deduct contributions on their federal tax returns. The District of Columbia court, a three-judge panel, had issued a preliminary injunction on January 13, ordering the Internal Revenue Service to stop granting the exemptions in Mississippi, unless it investigates and determines that the school does not discriminate against Negroes. Civil rights forces fighting the schools saw the ruling as a major development in controlling the spread of segregated private schools, which the Southern Regional Council estimates enroll upward of 400,000 students in the region.

Enter Robert Finch. A week before the court ruled, the then secretary of HEW told reporters that there was "quite a push" within the Administration to halt the exemptions. He said that many of the schools were obviously being established because of local school desegregation, and expressed his view that public schools were being undermined. "I personally will urge the Treasury

Los Angeles Times

*"Hurricane Camille? . . . No, Hurricane Mitchell!"*



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Department to reconsider the present policy," he said. One approach, he thought, would be for the government to require that a school meet minimal standards before being granted tax-exempt status; for instance, that it be required to have an acceptable library and adequate classroom facilities.

In Mississippi two days later, the *Jackson Daily News* reported that the White House had instructed Finch to back off. (The Jackson paper seems to have unusually good White House contact these days. It was early, also to report the impending dismissal of Leon Panetta on White House orders.) Finch said nothing. Meanwhile, spokesmen at Justice were explaining that its defense of the exemptions was *pro forma,* since the Department is attorney for the Treasury; the spokesmen indicated that they could not say what view Atty. Gen. John Mitchell might have on the subject. As for Treasury, some officials expressed concern at the prospect of having to determine that a school does not discriminate before granting tax exemption. That, one Treasury official said, would mean that tax policy was being used to regulate social matters. (Treasury's sale of gambling stamps to identify gamblers in states that prohibit gambling is, presumably, something else.)

So Finch lost again. In its new approach in court, Justice based its argument on a Supreme Court ruling made two weeks earlier. The Court upheld the right of local governments to grant local tax exemptions for church property. Such exemptions are not, the Supreme Court said, the equivalent of a subsidy. In drawing a dubious parallel between that case and the one involving schools patently established to evade the law and to perpetuate racial discrimination, the Justice Department said: "The recognition of tax-exempt status is an act of 'benevolent neutrality' to benefit the general classification of educational institutions."

Justice's new position not only rebuffed Finch (three weeks before his resignation from HEW); it also rejected a position taken by the Civil Rights Commission. The commission had said in 1967 that tax exemptions for segregated private schools may violate Title VI of the Civil Rights Act of 1964, which prohibits the use of federal funds in racially discriminatory programs. It also said the exemptions may be a violation of the Internal Revenue Code of 1954, which holds that institutions receiving tax-exempt status must be of general benefit to the public. Justice's position, then, is that segregated private academies, including those operated by the white Citizens Councils, which warp the nation's history and openly teach white supremacy, are in some general sense serving the public interest. It has embraced a policy of "benevolent neutrality" toward, for instance, the one-teacher Holy Bible Church School in Lamar County, Ga., which has no accreditation, no drinking fountains, no waste disposal, no rest rooms and very obviously little education, and where interested public school officials have been turned away by men armed with guns. □

PAWNING OFF THE PENNSY

# TAKEN—BY TRAIN

**ROBERT SHERRILL**

*Washington*

Out of respect for Richard K. Mellon, who had for years been a director of the Pennsylvania Railroad, other board members attended his funeral in Pittsburgh on June 5. Not wanting to spend all their time frivolously, they used the graveside get-together to plan how they might persuade the federal government to bail the nation's largest railroad out of its present financial difficulties.

Sen. Hugh Scott, the Republican minority leader, was also at the funeral, and the directors agreed to meet the following Tuesday in his Washington office. By the time this august group of businessmen assembled in the Senate Office Building on June 9, they had the procedure well arranged, for shortly after leaving Mellon's mortal remains they were on the telephone to David Rockefeller at Chase Manhattan Bank, and shortly thereafter David was on the telephone to brother Nelson, and he quickly passed the word on to the White House.

So the meeting in Scott's office went off like clockwork. At 9:30 the Congressional fall guys trooped in: Mike Mansfield; Wright Patman and John Sparkman, chairmen of the banking committees; Warren Magnuson and Harley Staggers, chairmen of the commerce committees. Transportation Secretary John Volpe and his Under Secretary James M. Beggs were ostensibly in charge of the meeting, and they did participate with a passion, but the fellow who *really* ran the show was Treasury Under Secretary Paul A. Volcker.

The purpose of the meeting was to sell everyone present on the idea that the Pennsylvania Railroad—or rather the Pennsylvania Central, as it became with the merger in 1968—should be given a $200 million loan under the Defense Production Act. Now, inasmuch as the Treasury Department has nothing whatsoever to do with the Defense Production Act, you may wonder what business this was of Treasury Under Secretary Volcker. On a sentimental basis, if nothing else, he had every reason not only to be there but to dominate the meeting: he was a vice president of Chase Manhattan before he came to the Treasury Department, and Chase Manhattan owns 5.6 per cent of the stock of Penn Central—believed to be the biggest bloc of that stock held by any person or corporation, except for the 7.2 per cent held by Morgan Guaranty Trust Co.

Using some large colored flip cards (supplied by Penn



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Central) to lecture from, Volcker ran swiftly through a maze of statistics to prove that the railroad was very probably on its deathbed. One who was there said: "I noticed that Volcker seldom had to look at the flip cards. He seemed to know the Penn Central data by heart." Volcker's tone was panicky. Without exactly saying it, he told his audience: "You men hold the entire free enterprise system in your hands. You can walk out of here having said 'no' to us, and the system will crumble." He topped that requiem by saying, "Unless we can go back to the banks with some kind of agreement this afternoon, the Penn Central will have to take bankruptcy by the end of the week."

It was clear that the White House and the Defense Department had agreed to "help our friends at the Pennsy," and had ordered their underlings to "find some law we can use." The law dredged up for the occasion was the Defense Production Act, which normally has been used to give loans to small businesses that are needed for defense work and can't float large enough loans through normal channels. Never before has the Defense Production Act been used to salvage one of the corporate giants.

On cue from Volcker, Assistant Secretary of Defense Barry Shillito sprang to his feet and delivered a lecture on what absolutely essential defense work the Pennsy did for the nation. But an observer of the session said later that Senator Magnuson interrupted at that point and got Shillito to admit that actually the Penn Central earned only about $100 million a year from the Pentagon, or about 5 per cent of the railroad's $2 billion income, which hardly would qualify the Penn Central to call itself a major cog in the Pentagon machinery.

The banker-controlled Treasury Department's interest in Penn Central is much broader than merely Chase and Morgan. Seventy-seven banks have in recent years loaned a total of $500 million to the Penn Central management, and of course they all would much prefer to get paid in full rather than take 60¢ on the dollar, which is what they would get if Penn Central went into bankruptcy.

To understand just how fully this is a banker problem—not a railroad problem—one should scan the interlocking ties between the Penn Central and financial institutions at the time of these negotiations. For example, these are Penn directors:

S. T. Saunders, director of Chase Manhattan, First National Exchange Bank of Virginia, Philadelphia Savings Fund, First Pennsylvania Banking and Trust Co. and its holding company.

A. E. Perlman, a director of Marine Midland Grace Trust Co.

D. C. Bevan, director of Provident National Bank.

P. A. Gorman, Bankers Trust Co., and its holding company.

L. W. Cabot, New England Merchants National Bank and Suffolk Franklin Savings Bank.

W. L. Day, Philadelphia Savings Fund and First Pennsylvania Corp.

J. T. Dorrance Jr., Morgan Guaranty Trust Co., and its holding company.

S. H. Knox, Marine Midland Grace Trust Co., and its holding company.

W. A. Marting, Bankers Trust Co., and its holding company, and National City Bank of Cleveland.

R. S. Odell, Wells Fargo Bank.

T. L. Perkins, Morgan Guaranty Trust Co.

R. G. Rincliffe, Philadelphia National Bank and Philadelphia Savings Fund.

R. S. Rauch, Girard Trust Bank and Philadelphia Savings Fund.

J. M. Seabrook, director of Provident National Bank.

Three directors—Cabot, Perkins and Dorrance—subsequently resigned from Penn Central on the ground that they wanted to allay public suspicion of "dividend interests." (It isn't good business to be too obvious.)

With banker clout like that on its board, one would think Penn Central could float another loan, or as many loans as it needed, whenever it needed them. But at the skull session in Scott's office, Volcker claimed that the railroad had actually gone into the market the week before with debentures carrying 10.5 per cent interest and couldn't raise a measly $120 million loan.

As Rep. William A. Barrett later observed: "The very fact that the big banks were beginning to cut Penn Central off from credit should have given the Nixon Administration reason to doubt the advisability of backing new loans to the corporation. When banks won't lend to a $7-billion corporation, then something is drastically wrong and I question whether it is proper for the federal government to become involved in an apparently open-ended guarantee of credit in such a situation."

The mechanics of the loan as agreed on will see the same seventy-seven banks already into Pennsy supplying the railroad with the $200 million at 8 per cent interest, the loan guaranteed by the government. That means a saving of at least 2.5 percentage points over what the railroad would have had to pay for a normal commercial loan—if it had found one. Other loans of $300 million are anticipated in the next few months at the same interest rate and with the same government guarantee. At first glance the lower interest may seem to be a disadvantage to the lending banks. But if the rail line *should* go bust at some future time, the government—you and I—will have to pay off the half-billion-dollar bank loans at face value, rather than at the bankruptcy percentage that would hold for a normal commercial loan. Thus the public is lifting that much burden of risk from Chase and Morgan and the other fat cats who own this road.

There are other ways the Penn Central directors could have taken care of their problem, if they had wanted to go the free-enterprise route rather than come crying to the government. They could have sold off some of their

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assets and paid their loans as they fell due. The Penn Central doesn't own just railroad equipment and roadbeds. It owns many millions of dollars worth of oil wells, real estate property (including some of the choicest in New York City), pipelines, hotels and amusement parks and other Americana. When *you* get hopelessly in debt, you sell your second car and pay up. But not the Pennsy. It doesn't like to do anything that might disturb the luxurious atmosphere in which its immediate past president, Stuart T. Saunders, and its new president, Paul T. Gorman, earn quarter-million-dollar incomes. Rather than tighten up on that kind of expenditure, it runs to the government.

Another thing that these great believers in the free-enterprise system could have done, if they had wanted to play by the rules they demand of everyone else, was to have gone bankrupt like good sports. Volcker kept wailing that the bankruptcy of the line "would mean no coal would be delivered to utility companies in critical areas," and "needed chemicals would not be delivered to industry in critical areas." Everyone who was listening knew that was nonsense.

Railroads that go bankrupt don't stop running. The New Haven line, bankrupt and in receivership for years, kept rolling along. A number of lines were bankrupt during the depression of the 1930s, but they kept rolling—until the big free-enterprise champions like the Pennsy gobbled them up.

There might be some argument for using public funds to save the Pennsy if it were a power for good, but it isn't. It has done everything it could to suppress needed competition. For example, Ben Heineman, perhaps the most imaginative railroad man of this generation, tried to put together a line that would bypass Chicago and St. Louis, offering an alternate east-west railroad that would get away from those notable traffic bottlenecks. Although it would not have posed damaging competition to rail networks in which the Pennsylvania had an interest, it would have offered competition of a sort, and the management of the Pennsylvania and of the Santa Fe joined forces with the Morgan Guaranty Trust and other major money interests to block Heineman.

The Pennsy has not survived because it was the most efficient road; it has survived and prospered out of financial bullying. As a matter of fact, its reputation for the last ten or fifteen years has been that of one of the least competent railroads, and it has got progressively worse since its merger with the New York Central. Its annual financial statements—symptomatic of the sickness that besets the line—have become notorious in the railroad industry for their inaccuracies and what appears to be outright deception.

On this point *Forbes* magazine, May 15, noted sarcastically: "If there were a prize for the annual report that goes furthest in trying to put a good face on a bad situation, the prize would go to Penn Central. The company had a simply disastrous year in 1969. Nevertheless, it managed to report a small ($4 million) net profit before an extraordinary loss of $125 million. It did so by imaginative bookkeeping and tax offsets."

The financial difficulties of the Penn Central have been talked about by railroad men for years. A. Scheffer Lang, who was Federal Railroad Administrator in the Department of Transportation under the Johnson administration and now is on the faculty at M.I.T., says that the present crisis was anticipated and discussed by DOT officials in his day and that they agreed the railroad should receive no federal help and should be allowed to go bankrupt.

Shortly after leaving that office, Lang said in an interview with *Railway Age* that while "in the early years, the Pennsylvania Railroad was by all odds the best managed and most progressive railroad in the world," now "in almost any technical or management area you want to name, you can find one or more roads that do a better job." He said the Penn Central was operating simply with a caretaker philosophy, the ultimate and most disastrous example of which would be found in the New Haven line (owned by the Penn Central).

Asked if he meant that the Pennsylvania was taking itself and the rest of the industry down the New Haven path, Lang answered: "Not exactly. I'm sure none of the

responsible people in Penn Central management are consciously willing to take the industry as a whole, let alone their own company, down the kind of road the New Haven has traveled. That would mean, of course, nationalization —because while you can pawn the New Haven off on Penn Central, you can't pawn Penn Central off on anybody except the federal government."

A year after Lang made that observation the Penn Central is being pawned off on the federal government, but not, however, with any honest admission of nationalization. □



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# THE GREEK COLONELS' REVENGE

**JEFFREY KOBBE**
*Mr. Kobbe, a writer and former New York editor, is a frequent visitor to Greece.*

When protesters of the Cambodian invasion converged on Washington, D.C., recently, Stathis Panaghoulis, a young, mild-mannered Greek, was also there on a special mission of his own. He had come to thank thousands of Americans who had added their voices in 1968 to the world opinion that saved his brother Alexandros from execution by Greece's ruling colonels. He also came to say that their voices must rise again to stop the colonels from killing Alexandros in a way much more insidious and diabolical than the firing squad.

Alexandros Panaghoulis, an award-winning poet and son of a retired colonel, was an army private when the junta overthrew Greece's constitutional government in April 1967. The military oath he took on joining the army included the pledge ". . . to fight to uphold the constitution of the state." To fulfill it, Alexandros left the army and for a year he and fourteen friends developed and tried to carry out plans for restoring Greece to constitutional rule. In August 1968, they tried to blow up Premier Papadopoulis, the chief colonel, in his limousine, but their homemade bomb misfired.

Authorities arrested and imprisoned the fifteen. Prison specialists apparently selected Alexandros for singular attention, subjecting him to eighty-two days of relentless torture and sexual bestiality. The others were similarly treated, but apparently with less rigor. The fifteen were brought to trial before a military tribunal in November 1968.

In court, Alexandros repudiated a "confession" extracted during his incarceration. He then told the court that he had tried to kill Papadopoulis to "free my country from tyranny. . . . I ask no clemency. . . . This regime will be toppled by violent means, because that is the only way to end it. We have failed, but others will follow."

Alexandros was sentenced to sixteen years' imprisonment for the attempt on the Premier's life, and to death for deserting the army (an interesting clue to the colonels' hierarchy of values). But the death penalty was held in abeyance because of worldwide appeals and expressions of sympathy. European governments, the Vatican, the United Nations, even the United States Government made official appeals to the colonels to spare the life of Alexandros. The colonels gave in to the international pressure and the life of Alexandros was spared. It was for some people a hopeful, if mistaken, sign that the colonels were perhaps becoming more humane.

Having allowed world opinion to frustrate their intentions and embarrass them at home, the colonels have been getting their revenge ever since by doing slowly to Alexandros what the firing squad would have done quickly. After the trial, he was manacled and returned to a prison cell without bed, bedding, plumbing or a minimally adequate diet. The round of daily torture and dehumanizing abuse resumed. A message smuggled from his cell appeared in several European papers in March of 1969:

> I ask that I be allowed to walk, even for a short while, outside my filthy cell. I ask that I be allowed to see the sun. Otherwise, if they have a modicum of courage, let them hurry my execution. I call on all free people to exert strong pressure on the junta to have the manacles which have maimed my hands removed.

Alexandros somehow managed to escape in June of 1969 but was recaptured several days later. The jail keepers then built a special cement cell for him. Cold and damp, it held no bed or plumbing, but did have a small window which was opened for fresh air two hours daily, except on Sundays and holidays. Alexandros responded by going on a forty-day hunger strike. The wardens in turn tied him down for much of the time and for ten months kept his hands tied together.

During the period of detention Alexandros' mother has been allowed to see him a few times, but not since March 31, 1970, at which time she reported that his teeth and nails were rotting from malnutrition. No observers and no other members of the family have been permitted to see him, despite appeals both personal and in the European press. His father repeatedly pleaded for permission to visit Alexandros and did so for the last time on May 13—two days before his own death. Packages of vitamins, food and clothing sent to the prisoner by his mother have been returned to her (an intentional cruelty, since it is common knowledge that postal and prison censors steal packages in the mail and throw away other communications they do not wish the addressee to receive).

On April 15, 1970, the government announced that Alexandros had tried to commit suicide. It is not known whether or not this is true (one never knows with the junta). It is established that soon after this report he was removed to Athens Military Hospital 401 where officials refused to discuss his case); and that earlier in his damp cell he had contracted pneumonia and then the tuberculosis which has afflicted other junta prisoners.

World opinion saved Alexandros Panaghoulis from the firing squad that would have made him an instant martyr and symbol of resistance to fascism. If the colonels deny him the medical attention he now requires, Alexandros will surely die, but his martyrdom will not have the clean smell of gunpowder.

Alexandros has absorbed and survived an incredible amount of brutality and debasement because his courage and stamina are almost superhuman. He has had to because the colonels fear people of his character and caliber. Many other Greeks are and have been subjected to similar but less severe treatment since the coup.

Stathis Panaghoulis is traveling in this and other countries with the hope that world opinion can once more be aroused to save his brother and help the plight of hundreds of other junta prisoners. His mission may be naive, but similar opinion saved Alexandros before and it saved a more famous poet, Mikis Theodorakis, who now lives in France with his wife and children, receiving the sunlight, medical attention and freedom the colonels denied him for two years. □



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# BOOKS & THE ARTS

## A Child's Garden of Versus

THE SCHOOL FIX, NYC, USA. *By Miriam Wasserman. Outerbridge and Dienstfrey. 568 pp. $10.*

COMMUNITY CONTROL OF SCHOOLS. *Edited by Henry M. Levin. The Brookings Institution. 318 pp. $7.50.*

SCHOOLS AGAINST CHILDREN: The Case for Community Control. *Edited by Annette T. Rubinstein. Monthly Review Press, 299 pp. $7.50.*

**IVOR KRAFT**

*Mr. Kraft, formerly child development specialist with HEW, now professor at Sacramento State College, has written frequently for* The Nation *on educational issues.*

These three books, all good and worth reading, pursue the same major themes: the failure of the inner-city (largely black) schools; the stagnation of the metropolitan school bureaucracies; the who-struck-John aspects of the educational mess in New York City; and the need for decentralization and community control within big-city systems.

Before adumbrating why all of the books lead, in my view, to mistaken conclusions, the considerable merits of the analyses ought to be acknowledged. Miriam Wasserman's section on "power and status" in the New York schools is the best recent treatment on this theme that I have encountered. Well-written, probing, and supported by sharp anecdotal passages, it shows how the nation's biggest school system reflects and reinforces the dog-eat-dog side of our culture.

Levin has edited a series of papers presented at a 1968 Brookings Institution conference devoted to the community school. Rhody A. McCoy, leader of the Ocean Hill-Brownsville demonstration school district, offers a clear statement of the case for community control, and the difficulties to be met in fighting for it. Most of the other papers are sound, but sometimes dull.

*Schools Against Children* is a collection of essays on the New York system, vividly chronicling the disorder and conflicts of the recent past. David Rogers contributes a 15-page chapter on the New York City educational bureaucracy in which he states clearly what he put murkily in nearly 600 pages of his *110 Livingston Street*, proving again that for education critics, even more than others, brevity remains the soul of wit. In a few paragraphs he deftly sketches the waste, red tape and corruption of the system. After providing statistics showing the proliferation of bureaucratic hacks between 1965-68, he pointedly concludes that poverty money intended to benefit ghetto children goes instead to "support more and more middle-class bureaucrats, while reading scores in these schools continue to go down."

The now familiar view that the UFT (the New York teachers' union affiliated with the American Federation of Teachers) has sold out and hitched up with the bosses is put bluntly by John O'Neill, a former vice president of UFT, who portrays the union leader Albert Shanker as a classic trade union renegade and opportunist:

> Opposition to Shanker is building in those big-city locals which have good-sized Black memberships, such as Washington, D. C. and Detroit. A Shanker-Selden split is in the making, with Shanker leading a conservative right-wing, essentially anti-Black, caucus against Selden [*David Selden, president of the American Federation of Teachers*], who will be supported by the Black leadership in the national union and the small genuinely progressive white groups in many locals, including even the UFT.

For the majority of the essayists, the villains are the central boards of education, usually portrayed as conservative, uninformed and cloistered, and the professional educators, or as Rhody McCoy calls them (in the Brookings volume) the "job-oriented teachers and administrators" who "utilize the Madison Avenue technique of selling an inferior product to a receptive audience." The scorn which the pedagogical pooh-bahs on the make express toward the core activity of their profession is targeted in the following item from Miss Wasserman's book:

> One of the last official acts performed by the retiring superintendent, Bernard Donovan, in September, 1969, was to punish a teacher, Leslie Campbell, for misbehavior of various sorts during the previous academic year by assigning him "for the 1969-70 school year . . . to classroom teaching duties only."

For a neat vignette of this same Leslie Campbell in his classroom at J.H.S. 271, see Annette Rubinstein's report of her field observations.

Much can be learned from these volumes, but my chief criticism is their one-sidedness in presenting school bureaucracies as overwhelmingly Philistine, teachers as hopelessly self-serving, and slum children as all-noble and all-suffering. True enough, but there are even grimmer truths that loom in the background. The metro-politics which whelps the school bureaucracies is even more Philistine and corrupt. The parents of the children being taught are often more self-serving than the teachers. And suffering slum children can display streaks of hooliganism that transform idealistic young teachers into middle-aged jailers. None among these volumes sufficiently enlightens us as to these grimmer realities.

Instead, all three books present community control of the big-city schools as a promising solution to conditions of educational squalor and chaos. Closely examined, however, the case for community control has some feeble aspects.

Precisely who does the controlling, or should do it, when a school system becomes "community-controlled"? Do not rush to say, well, obviously the community, for the answer is far from simple. From these essayists, I have culled no less than thirteen separate groupings that have been cited as deserving a share in control: the local board; the central board; the state board; the municipal government; the state government; the local school administration; the local school faculty; the professional teachers' association; the parents; the pupils; the maintenance personnel; the clerical staffs, and finally "the people." Too much, it seems to me, although on careful inspection not one of the above is without some legitimate if small claim for a piece of the action.

Among this baker's dozen of ingredients, "the people" is no doubt seen by the community controllers as the yeast that will cause our cake to rise again. "Community participation" will rescue the liberated inner-city schools from decay and imminent disintegration. Since "power to the people" and "community participation" are windy abstractions, what is usually implied is "more parental involvement," such as voting for local



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boards, attending school meetings, visiting classrooms, filling "paraprofessional" slots, and the like.

Is participation what parents chiefly yearn for? No one can be sure, but I suspect that if black or Puerto Rican parents in a typical inner-city neighborhood were asked to name the one thing they want more of from the schools, the answer would be "more discipline—make them mind." Summerhill-type philosophies, Freedom with a capital F, authentic Deweyite progressivism—the good parents of Harlem want these like they want a hole in the head. They want their children to be shaped up, to be made upwardly mobile. And why not? With the exception of the very rich, who have it made from birth, and the sick "*lumpen*" poor, who are not going to be prominent community controllers, about 95 per cent of the rest of us are programmed to want schools that are cranked into the achiever-consumer-capitalist contraption. That is, we want schools to help us get, first, good guaranteed jobs, then better jobs, and all along, the expectation of a constantly increasing standard of living. People who write books on community control belong to the 5 per cent.

Also assumed about decentralization is that it will lead to flower bursts of newness. Why should it? Are there going to be "diversity of goals," "unique community objectives," "richly varied innovations" in the 6th grade of an inner-city black ghetto in Chicago to distinguish it from its counterpart in Detroit? Good schools and bad schools are mostly alike, and almost always have been, varying chiefly by socio-economic indicators, this variance itself being the source of our deepest woes. There aren't going to be any thousand flowers blooming as a result of community control.

Except for very small and strictly independent private efforts, genuine educational innovation is very hard to mount and sustain. School systems, when they claim they are innovating, merely adopt practices which have been checked out elsewhere. We see this clearly in the history of the 1965 Elementary and Secondary Education Act. Title III of ESEA, for example, was written originally as a true attempt to invite innovation at the local level. But the $500 million spent under this Title—actually not a great deal when compared with the $4.5 billion spent under Title I—have yielded practically nothing that can be considered educationally bold or inventive.

A necessary, even if not a sufficient, cause of school innovation is money. Fancy pedagogy requires lots of cash. Essays in both the Brookings and Rubinstein volumes make it clear that adequate funding for community-controlled schools is nowhere in evidence. They may get off the ground and fly a bit, but they will never soar, not until they can shake off the penuriousness that afflicts all inner-city schools.

One of the rosy dreams of the community controllers is that, in the words of the Brookings conference report, "schools represent a focus around which political and social structures could emerge for black Americans where such structures are presently lacking." I can find no evidence to support this possibility. Since the emergence of the modern capitalist world order, in all industrialized nations elementary and secondary school systems have been instruments of and servitors of "political and social structures," never the prime movers or forgers of such structures. (Higher education may be something else.) The experience of minorities within nations does not contradict this generalization. The Jews in Poland, the Irish in Britain, Negroes in our South under dual school systems—although each had a version of "community control" over their lower schools, in no case did such control culminate in effective structures of socio-political power. True power flows from pocketbooks or gun barrels or land rights or large chunks of equity, not from curriculum committees. Thus the lower schools and the school keepers have always performed as loyalists to established powers and orthodoxies, becoming in the last analysis pillars of the established structure.

The reason why an establishment is an establishment is that it has an enormous warm bosom within which it attracts, coddles, and smothers a multitudinous brood, including even a few of the family's black sheep, who may grow weary of rebellion and return to suck of the sweet nourishment formerly spurned. My prediction is that in due course the NEA, the AFT and the assorted state and local bureaucratic brotherhoods of pedagogy will draw the community controllers to their bosoms, and contrive to co-exist as they always have, one agitatedly happy family, buttering themselves up with their rhetoric about "realizing each child's maximum potential," while doing nothing of the sort.

Simply put, the most compelling reason for more decentralized decision making about the nation's public schools is this: it is fairer. It gives greater numbers of upwardly mobile people more of a say about an important social institution. This is especially significant for Negroes, Mexican-Americans, Puerto Ricans and other silent under-represented minorities eager to get a leg up, to enter the American middle-class mainstream. Where middle-class whites are selling out on integration the least they can do is allow a new echelon of minority spokesmen to run their own schools. □

# 'You Really Gets'

BECH: A BOOK. *By John Updike. Alfred A. Knopf. 206 pp. $5.95.*

**IVAN GOLD**
*Mr. Gold is the author of* Nickel Miseries *(Viking) and* Sick Friends *(Dutton).*

Henry Bech, the writer, is seriously blocked, which is not an affliction he shares in any obvious way with John Updike. (*Bech: A Book* is Updike's thirteenth.) Henry Bech is Jewish, 48 years old, and a bachelor, conditions of life which further differentiate him from his creator. Apart from this, Bech and Updike seem to have been down similar byways—on a State Department-sponsored cultural junket in Eastern Europe ("Bech in Russia," "Bech in Rumania," "The Bulgarian Poetess"), to London ("Bech Swings?"), and probably also to Martha's Vineyard ("Bech Takes Pot Luck"), and to a women's college ("Bech Panics").

Both, furthermore, were inducted into the National Institute of Arts and Letters ("Bech Enters Heaven"), although this dubious accolade—"He had made it, he was here, in Heaven. Now what?"—came to Bech much later in life than to Updike, who was so honored in 1964, at the age of 32. And both are deeply and eloquently concerned with the moral and practical difficulties of being a writer of fiction in these *schlock*, self-conscious times, Bech living out aspects of the problem in each of these seven episodes, and Updike having invented Bech.

Despite his continuing crises of soul and circumstance, Henry Bech is not ungenerous: at Updike's request he contributes a foreword to the present book, which begins: "Dear John, Well, if you must commit the artistic indecency of



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SUNSET WITH BLAME

*you started it all*
*and again*
*she said* you
*THE BLAME*
*came rolling straight at him*
*chanted*
I'm yours I'm all yours
*into the sunset*
*he rode with it*

Anselm Hollo

writing about a writer, better I suppose about me than about you." As to "artistic indecency," Updike never spells out why it is anything other than difficult and risky to write about a writer staring into his own head and guts, nor why, if the risk is taken, it is not far better to take it on one's own.

The foreword goes on to blast

> the silky mechanism whereby America reduces her writers to imbecility and cozenage. . . . Our language degenerating in the mouths of broadcasters and pop yellers, our formal designs crumbling like sand castles under the feet of beach bullies, we nevertheless and incredibly support with our desperate efforts . . . a flourishing culture of publishers, agents, editors, tutors, *Time*-niks, media personnel in all shades of suavity, *chic*, and sexual gusto.

No novelist who has lived and worked in this milieu, or who has crawled out of bed on publication day to see the next small portion of his life blighted by a widely disseminated, mindless "review," will quarrel with these judgments. Apart from its foreword, *Bech: A Book* has two appendices, the first excerpts from Bech's Moscow journal and the second a Bechian bibliography, where under "Critical Articles Concerning" we find, among much else, "Prescott, Orville, 'More Dirt,' *New York Times*, October 12, 1955. . . . Poore, Charles, 'Harmless Hodgepodge,' *New York Times*, August 19, 1958." Similarly with the title, that (snooty? disarming?) fragment following the colon: it seems addressed to the same small-brained media men Bech holds in such contempt who would spend time and newsprint pondering, Is this a Novel? Is it a mere-collection-of-short-stories?

A book it surely is. The seven episodes interlock and enrich one another; Updike may be an architect, above all else. His sense of place is hard and sharp, at times fantastic: the exotic is made familiar, the familiar is somehow transfigured. There is throughout an emotional exactness, a precision of observation, Updike's special knack of pinning the fugitive moment. The dialogue contains real wit and depth and pathos, particularly as Bech labors to make contact with his East European hosts and counterparts, whose minds often outstrip their English. There are some wonderful examples of what British reviewers and critics like to call "set pieces" (though every writer knows damn well he is obliged to invent them), as the scene in a Romanian nightclub, an endless, tawdry carnival. (" 'My God,' Bech said, 'isn't this ever going to be over? Don't you Communists ever get tired of having fun?' The writer's wife told him, 'For your money, you really gets.' ") There are a number of minor characters —even *minor* minor characters—who will remain in the mind. The excess of *Couples*, where more sheer *writing* was crammed into a page or paragraph than some stomachs could bear, is not much in evidence. *Bech* is a book, all right, full of instruction and pleasure.

But Bech himself is a problem. The merest Spanish lady's maid in London emerges more vividly than he. Forewords and appendices don't alter this. Nor do halfhearted references to Jewish uncles in Brooklyn. (Unless, as Malamud says, "All men are Jews," which much simplifies problems of characterization.) Bech's anguish, his ruminations, seem free-floating humors, genuine, eloquent griefs in search of a character. His politics, which are addled, also seem grafted on. There is a succession of remarks and implicit attitudes which will bring the Liberation out, if the ladies are bothering with fiction. And there is a tendency throughout to use the role of the artist (even the blocked artist) as an excuse for what is at best quiescence:

> [*It was*] his intuition that self-aggrandizement and entrepreneurial energy were what made the world go and that slogans and movements to the contrary were evil dreams, evil in that they distracted people from particular, concrete realities, whence all goodness and effectiveness derive. . . . Write him down . . . as a disbeliever; he disbelieved in the Pope, in the Kremlin, in the Vietcong, in the American eagle, in astrology, Arthur Schlesinger, Eldridge Cleaver, Senator Eastland, and Eastman Kodak. Nor did he believe overmuch in his disbelief. He thought intelligence a function of the individual and that groups of persons were intelligent in inverse proportion to their size. . . .

Bech here seems a particularly windy, ill-fitting mask to hide behind.

And if we try to countenance the claim that Bech is a writer of international stature, an imaginary toad in a real garden, if we try to insert him in the Pantheon, we find no niche at all—he slips into the vast, gray sea between Borges and Mailer, Borges who makes literature of literature, and Mailer who makes it of himself. In Borges' wake swims all manner of *Kitsch*, from the old *nouvelle vague* to the recent spate of empty-handed jugglers, and in Mailer's wake, at the moment, swims nobody much at all. But his, it seems clear to me, is the direction most of us will have to take. Bech himself takes no direction at all: his artistic anonymity disqualifies the importance of his art. That particular failure of realization is a telling symptom.

Updike looked up from his desk, confronted the *Zeitgeist*, and almost gave us the portrait of a good, busy man of letters worrying, right out front, about the craft, the role, the rewards. But he backed off and settled for the same trappings of the trade, the same tools and disguises whose authenticity and relevance he questions. □

# Buddy-Buddy

THE INFORMATION WAR. *By Dale Minor. Hawthorn Books. 212 pp. $6.95.*

THE ADVERSARIES: Politics and the Press. *By William L. Rivers. Beacon Press. 273 pp. $7.50.*

**JAMES ARONSON**

*Mr. Aronson, a newspaper man for more than thirty years, and a founder and former editor of* The National Guardian, *is the author of* The Press and the Cold War, *to be published by Bobbs-Merrill in October.*

I am able only to paraphrase the closing comment by Marvin Kalb, CBS diplomatic correspondent in Washington, as delivered on the "First Line Report" over WCBS radio at 6:50 A. M. on April 29, 1970. It is, after all, difficult at that hour to grab a pencil, find a writing pad, and take down an exact quote off the bathroom transistor radio while shaving. But this is essentially what Kalb said: There is not a legislator in Washington, not a public official, nor even a reporter who does not sympathize with President Nixon as he agonizes over the decision he must make about United States intervention in Cambodia.

That glob of applesauce was delivered only hours after the Senate Foreign Relations Committee had heard Secretary of State Rogers indicate that a considerable commitment would be made in Cambodia, and it was reported that the com-



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mittee was overwhelmingly opposed to such commitment as paving the way for a new and perhaps even more disastrous Vietnam.

Surely any astute Washington reporter knew the fix was already in. Kalb's comment struck me as an attempt on the part of a Washington correspondent of considerable standing to enlist the sympathy of the American public in accepting as inevitable a monstrous decision to perpetuate a discredited policy. But Kalb was not alone. That kind of reporting was common in the last days of April in the press, and over TV and radio throughout the United States. Even more to the point, it has been common practice since the beginning of the cold war in 1945.

Some explanations for this practice are provided in two interesting and valuable books about the relationship of press and government—one by William L. Rivers, a veteran Washington correspondent who now teaches journalism; the other by Dale Minor, a young and venturesome radio reporter and station manager, who brings to his conclusions the advantage of first-hand experience in Vietnam.

Although both books range beyond the coverage and manipulation of the news in Vietnam and lay great stress on domestic news management as well, their appearance at this time of widening war in Indo-China is particularly pertinent. Especially with the kind of "information" with which our newspapers and TV stations belabor us in edition after edition, in broadcast after broadcast:

> ¶Forty thousand North Vietnamese troops are fighting in Laos (where we have only a handful of advisers) and are driving to take the capital of Vientiane.
>
> ¶Sixty-seven thousand North Vietnamese troops, along with countless thousands of "Vietcong," have invaded Cambodia and are driving to take the capital at Phnom Penh.
>
> ¶In South Vietnam, the enemy consists of vast numbers of North Vietnamese troops who are killed in remarkable profusion only to appear again in even vaster numbers.

And the kind of logical conclusions that are drawn:

> ¶The National Liberation Front of South Vietnam, although it has been waging war in the South since 1961, and although it is represented by a provisional government at the Paris peace talks, has vanished into thin air.
>
> ¶The resilient left-wing Pathet Lao, led by Prince Souvanouphong in Laos, has likewise disappeared, or is lolling in a hashish haze in remote villages as their North Vietnamese brothers drive on the capital.
>
> ¶All Cambodians support the new CIA regime, despite the fact that Prince Sihanouk was enormously popular in Cambodia, and are cheering madly — particularly the South Vietnamese residents of Cambodia — as the Americans appear to deliver them from their neutralist bondage.
>
> ¶Hanoi, having sent its soldiers by the thousands single file through the turnstiles at the termination points of the Ho Chi Minh Trail and the Sihanouk Trail (where they are carefully checked off by certified accountants of the Joint United States Public Affairs Office, Saigon), has turned the defense of the Democratic Republic of Vietnam over to some wispy ancient uncles and marvelously attractive young women who always grace the propaganda films.

Minor's description of the information war in Vietnam, in which the reporters fought a largely losing battle against the forces of government—United States and Vietnam—gets behind the smoke screen of fakery, guesswork, obscurantism, and just plain lying. The information war began in 1961, during the regime of Ngo Dinh Diem, whose fall was credited by Joseph Alsop to a group of "crusading" young reporters in Vietnam—just as *The New York Times*'s Herbert Matthews lost Cuba to the Cubans, and Dean Acheson (of all people to be present at the creation of a revolution) lost China to the Chinese.

Minor, not surprisingly, is most informative about the electronic media. He was an effective administrator for Pacifica Radio (WBAI-FM in New York), and a correspondent in Israel, Greece, Birmingham and Selma. His description of the development of the "snow machine," by which the government buries the American public under mounds of slushy information, is spelled out in case-history fashion in the American debacles at Ap Bac and Khe Sanh. He comes home to Chicago to tell of the assault on the working press by the forces of government at the 1968 Democratic National Convention. He explains in expository fashion how the Federal Communications Commission works, how the network executives respond to the FCC's considerable power to limit their scope of expression, and the distinctions between freedom of the press as it operates under the First Amendment for the printed press, and under an FCC license for the electronic press. He provides the background for FCC Commissioner Nicholas Johnson's evaluation of TV-radio's performance in the wake of Vice President Agnew's


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—*Saturday Review*

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broadside. Whether or not there was an actual deal, Johnson said, "the results are very much the same as if there were a government-media agreement that the media will take care of the Administration's image if the government will take care of the media's balance sheets."

At times, Minor's facts could be more specific. It may be a small point that the unnamed "bothersome reporter" to whom President Franklin D. Roosevelt awarded a German Iron Cross was John O'Donnell of the New York *Daily News*, or the "one reporter" who coined the phrase, "Sink or Swim with Ngo Dinh Diem," was *The New York Times*'s Homer Bigart. It is a large point when Minor writes that the news of the secret preparations for the Bay of Pigs invasion in Cuba "began to seep out by November 1960," without crediting *The Nation* for breaking the story. And far from being a seep, the efforts by *The Nation* to persuade the general press of the importance of the story were more nearly a barrage. The efforts failed, and the failure speaks more about the reasons for the success of the "snow machine" than volumes of philosophical discussion about the interplay between press and government in a democratic society.

William L. Rivers reports on the operation of the Pentagon's enormous publicity apparatus, directed by persons who used to be newspaper men themselves. This giant news-management machine develops a system of cronyism between reporters and Defense Department officials to the point where salutes to the correspondent of the *Houston Chronicle*, for example, might seem to be mandatory for field-grade officers in the corridors of the Pentagon. The facility with which Washington correspondents slip from a press-room typewriter to a glass-top executive desk in a government office is alarmingly common and smooth.

Rivers, an old Washington hand who was the author of an illuminating book about the Washington press corps, *The Opinionmakers* (Beacon Press, 1965), is now a professor of communications at Stanford University. In *The Adversaries*, he discusses the proper relationship of the press—primarily the working press—to the government, and concludes: "There should be a necessary level of tension between a reporter and an official. It may vary slightly with different reporters, and different officials, but it never allows one to be entirely relaxed in the presence of the other. . . . The political journalist must remember that he and the official may serve the same constituency, but their obligations to it are quite different."

The government official sees his obligation as presenting the government's position in the best light. The reporter should see his obligation as skeptical questioning with the aim of protecting the interest of the public against the government's attempts to withhold or distort facts, or to implement policies without public examination before the fact.

Rivers contends that the adversary relationship, except in rare cases, does not exist. He places a large share of the blame on government, but maintains that the owners and operators of the communications media are also at fault for not encouraging an adversary stance by their reporters. He also criticizes the working press for not resisting the blandishments and emoluments that flow naturally and comfortably from buddy-buddy relationships with officials with whom they ought to maintain an arm's length relationship—and sometimes two arms and a leg.

To buttress his conclusions, Rivers reprints the results of studies by students and former students, mainly doctoral candidates at Stanford, and an able group of former colleagues of the Washington press corps—James McCartney of the Knight group of newspapers, Martin Nolan of the *Boston Globe*, Laurence Stern of *The Washington Post*, and Erwin Knoll of the Newhouse group. (What once was called "chains" is now called "groups," a Madison Avenue variant which apparently removes the gang connotation from the member papers.)

Many of the case histories are of high quality—disclosures of distorted reporting from Vietnam; the Bobby Baker scandal; the coverage of the Hauptmann-Lindbergh kidnapping case, and the trial of Dr. Samuel Sheppard in Cleveland; "sweetheart" journalism in Texas and in Cincinnati, and even a study of the one-party press under Nkrumah in Ghana. In the course of this history, Rivers does something that Minor, surprisingly, does not do—even though Minor would seem politically left of Rivers. He discusses what has come to be called the alternative press, with interesting descriptions of the efforts of the biweekly *Bay Guardian* to buck the journalistic tide in the San Francisco Bay Area, and the *Peninsula Observer* in California. But Rivers himself takes up all too briefly the role of the so-called underground press, and he offers little comment on the radical political press.

Rivers and Minor have between them done valuable service in adding to the body of constructive criticism of the press meaningful personal experience and carefully researched case histories that will help the reader gain insight into the communications industry.

Significantly, both authors join in an adversary relationship to the position of James Reston of *The New York Times*. In his book, *The Artillery of the Press* (Harper & Row, 1967), Reston maintained that "the people who write the news are not the enemies but the allies of officials . . . the area of conflict between them is narrowing and the area of cooperation is widening." They have more to gain, he said, "by cooperating with one another, and with the rising tide of thoughtful people, than by regarding one another as the enemy."

Such an exposition helps explain why Reston played such a potent role in persuading the managers of the *Times* to withhold information on the Bay of Pigs, the missile crisis in Cuba, and the U-2 flights over the Soviet Union. One can only speculate that had such disclosures been made in time lives would have been saved and the cause of world peace might have been advanced. For such is the power of the press and the urgency of the problems that are taken up by these two studies. □

## THE YOUNG

*When young proclaim Make Love Not War*
*I back them up because it's better*
*and some are brave as they can be,*
*but they don't make love to me.*

*He brought petunias to the Be-In*
*and fed a lump of sugar to a policeman's horse,*
*but me, he said, he didn't like my vibrations.*
*For this I didn't need to trudge to Central Park.*

*Sure I am heartened by my crazy allies*
*and their long hair looks very nice on some,*
*but frankly, more of them were interesting*
*before they all began to do their thing.*

Paul Goodman



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# A Memory of Forster

**RICHARD STERN**
*Mr. Stern's 1968 has just been published by Holt, Rinehart & Winston.*

> He traced his decomposition—his work had been soft, his books soft, he had softened his relations with other men. He had seen good in everything, and this is itself a sign of decay. Whatever occurred he had been appreciative, tolerant, pliant. Consequently he had been a success . . . it was the moment in civilization for his type.
>
> *E. M. Forster, "The Point of It"*

Mr. Forster, 84 then in 1963, was next to me at table (the maneuver of my friend, a fellow of King's College). It was summer, high table was three sides of a rectangle in a small dining room off the Commons Room. Forster had been invited back to this decorous Georgian quadrangle after World War II. It was his home, he was its jewel, the icon of English literary civility.

A long man, now stooped and rounded, Forster's lined face was shyly forward, a wise old dog's face. His movements had the slow grace of economy and security, the movements of a man who has learned how to live a long time.

A man of old accomplishment and long modesty, Forster had perhaps surrendered to self-criticism too early. Yet perhaps he'd found, as years passed, that what he'd done survived much that was more flamboyant. The man who had domesticated English mysticism could not be surprised by odd survivals.

Extremely courteous, he had a tolerance founded in that persistent curiosity which saw his absorption in the newspapers, the new books. He spoke of a fine review in *The Observer*, of the day's menu, of Cambridge out-of-term. A small emanation of the peculiar worked from the wit-sheathed gentility. There had been a heavy burden of chicken in recent menus; he would scrawl a note about it in the fellows' commentary book. He was so pleased the other day to receive a copy of the first book of his to be translated into Italian; he wondered why they bothered now. He also enjoyed Santha Rama Rau's dramatization of *A Passage to India*, but again, the success was puzzling. It sounded to me as if he felt that his work was a piece of antique family silver, brought out every ten years or so for some special turn in literary sympathy.

Alert to what went on, inoculated against the familiar gestures and self-willed eccentricity of this snug collegiate galley, the secret Forster was still at work; the Man of Sympathy who had invented unsentimental ways of conveying it.

At an age when most men are alert to others only from fear of being injured by them, Forster's alertness was ceremonious, inflected with his own rhythm and bite. Here is an instance: My friend had gone beyond the standard offering and bought a bottle of red wine. I drank, relaxed, conversed, grew jocular, expansive, illustrative, and swept the half-filled bottle onto the figured white tablecloth. Talk stopped. Forty eyes studied the small red sea. I ventured: "I wonder if anyone has ever made so clumsy a debut at your table." There was a long and, for me, not unweighted pause. Mr. Forster was visibly reflecting, eyes back researching high-table debuts. Survey concluded, he turned to me, and, in the slightly burred precision of his speech, said, "I'm not entirely certain of that."

Ah well, minutes later, in the Commons Room, digesting my clumsiness and my friend's rebuke, I looked up to Mr. Forster holding out a clipping from *The Observer*. "Here's that review," he said. "I hope you'll agree with me about it."

That summer, I went up to his rooms two or three times. At least, to the long, high-ceilinged room with the blue china, the family portraits, the leather chair and hassock before the fireplace, the cluttered table where he might be found writing notes. If I had a child with me, Forster would move slowly across the room to a cabinet for a box of candy, would offer it with enormous sweetness to the little boy, and then give him some book or amusing trinket. To me, he talked of life, letters and, modestly, himself. He still got around a bit, he had a flat in London on the fifth floor of a walk-up, it had recently been burgled, his first experience of that. He spoke of the young policeman who had become a close friend, of the man's family with whom he loved to stay up in the north "where they make goods, not words." His personal talk had the direct warmth which is so much part of the great English novels, a warmth which began flickering in his own work and, in different ways, in Bennett's, Wells's and Virginia Woolf's, and which burnt out in the mockery and anger of the post-war years. The men who could "make you see the whole of everything at once"

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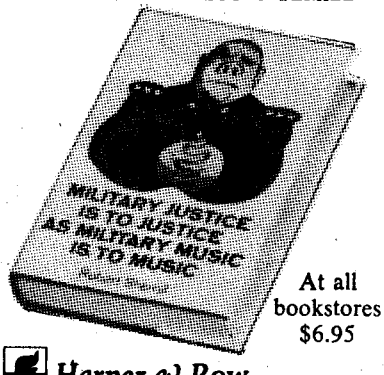


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(*A Room with a View*) were hard to believe after 1945.

Last year, age 90, there was a beautiful ceremony for him at King's, a fine concert, a fine dinner. Young and old rejoiced in tribute to so fine a gentleman. Apparently Forster relished the beauty of it; he was a man who had prepared for celebration as he had prepared for long life.

And apparently for what would come. The year after I saw him at King's, a friend of mine volunteered to read to him. His eyes were too weak to read much and, oddly, no one seemed to ask whether he'd like to be read to. He was most grateful, and the next day, my friend found a chair drawn up across from Forster's and a book by the table. "Would you mind reading 'The Death of Ivan Ilyitch'?"

"Now I am here, but then I shall be there. Where?" Ivan Ilyitch sees it is not his vermiform appendix but death itself that is inhabiting him. He tries to avoid it, goes back to the law courts, tries talking with colleagues, goes through his redecorated house when suddenly "he saw IT."

In the cold room with the fire lit and the 85-year-old man drinking up the great preview of death, my friend began to cry. Mr. Forster reached over and touched his shoulder. "Don't worry," he said. "Don't worry. It's all right. It'll be all right." □

UNFINISHED POEM

*Horses*
*contemplating*
*the bust of Aristotle*

*then breaking*
*into dance.*

Howard McCord

# Beautiful Capitalism

THE PRICE OF DEPENDENCY: Civil Liberties in the Welfare State. *By Robert M. O'Neil. E. P. Dutton & Co. 351 pp. $7.95.*

**PAUL CHEVIGNY**
*Mr. Chevigny, on the staff counsel of the ACLU, is the author of* Police Power: Police Abuses in New York City (*Pantheon*).

Some years ago, as a very junior associate in a large law firm, I was sent with some of my colleagues to the offices of a corporate client in a benighted Midwestern manufacturing town, to screen hundreds of thousands of documents for a government antitrust investigation. Our work was hardly more than clerical—simply to determine whether the papers were relevant to the case. The responsibility of the government attorneys was greater—they had to see whether they could extract evidence of violation from the documents.

The pattern of our lives was the inverse of our jobs. We private lawyers, despite our menial task, ate in the best restaurants, stayed in the best hotel, and flew home each weekend to our families, all as part of our (tax-deductible) legal work. The government lawyers, much older than we, arrived at the job tired out by driving from Washington to Indiana (at 8¢ a mile), and haggled constantly over their meals and hotels in the effort to stay within their meager per diem. They viewed us with ill-concealed Populist envy, and our way of life undoubtedly whetted their appetite for incriminating evidence.

Even at that time, I was struck by the fact that the government, under the guise of fostering honesty and economy, was really telling its employees, at every moment of their lives, that people in private industry were better, more deserving of the good things in life, than civil servants. The whole tax and civil service structure, together, were little more than a legal paean in praise of private enterprise.

This superb book is a study of the restrictive conditions, sometimes hidden, sometimes open, which are attached to such government largess as civil service jobs. Of the hidden policy described above—I call it "Beautiful Capitalism"—Mr. O'Neil has this to say:

> Many conditions on government benefits represent a *quid pro quo* of this sort whether in the form of a loyalty oath, a waiver of some interest in personal privacy or the stripping of one's assets. The legislator or administrator who views the beneficiary in this light is reluctant to give with the left hand unless the right hand has either held back a slice of the bounty, or soured its taste enough to make the recipient conscious of his dependence upon his more industrious and self-sufficient brothers.

There are, of course, much more ferocious and notorious examples of the policy, particularly in the degrading administration of welfare, but it is interesting to remember that even a government attorney is penalized for his *presumed* inability to serve in the jungle of private practice. O'Neil describes a great many sorts of conditions upon government benefits, and all of them have at one time or another been used to abuse the privacy of citizens.

This book is a balanced study of the problem of dependence in our welfare state, and the growth of legal rules to combat some of its evils. It is the best sort of book about the law—through the concrete facts of the cases, it tells us about the rules of law, as well as the underlying problems. Better than most lawyers, O'Neil knows how to use his cases as though they were stories of human conflict (which, of course, they are). And yet, by some magic, he manages to use all the important cases.

*The Price of Dependency* concentrates on five categories of government beneficiaries: employees, students in government-sponsored institutions, welfare recipients, public housing tenants, and users of public property. In reviewing the history of the law, O'Neil reminds us of problems and precedents, some astonishingly recent, yet overruled and forgotten. In scarcely twenty years, the law has moved generally from the position that government benefits (especially jobs) are a "privilege," to which any condition might arbitrarily be attached, to the position that when a condition touches upon a man's constitutional rights, the government must show that an alternative less restrictive of those rights is not available. The distinction between "right" and "privilege" has thus faded.

In his best chapters, concerning student rights, O'Neil reminds us that the courts have developed their doctrines in barely ten years. In 1960, it was doubtful that students had any remedies at all for arbitrary suspensions; in 1970, it is fairly clear that a student in a state institution may not be suspended without a hearing under fair rules, and that some student activities, such as peaceful dissemination of ideas, may never be punished. The development of welfare rights has been even more spectacular. As recently as 1963, most people had never heard of the midnight welfare raid; by 1970 it had been consigned a place with the coercive poorhouses of laissez-faire Britain.

This is, by implication, an optimistic book for the legal system. The exhaustive analysis of the cases, new as well as forgotten, shows that the law responded flexibly to what is, after all,



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the central modern problem of civil liberties: the conflict between the needs of the individual and an economically powerful state. From the standpoint of the history of traditional law, the developments have been so rapid as to cause growing pains to the judiciary and scholars. The *Harvard Law Review* actually proposed, last year, that the civil rights jurisdiction of the federal courts (which have chiefly carried the burden of change) ought to be restricted to eliminate some "unimportant" cases, and thus reduce the pressure.

From the standpoint of those litigating the rights of government beneficiaries, however, the growth often seems agonizingly slow. The reason, of course, is that progress in the law, encouraging as it is, has not kept pace with the problem. Students of welfare and public housing, for example, generally argue that administrative and judicial remedies cannot possibly cope with the myriad infringements of liberty inherent in a state of economic dependency, and the only solution is absolute entitlement, with no conditions whatever. The Supreme Court itself has begun to hint at a "right to live," which may presage the removal of all conditions, at least for welfare.

Much of the problem of government coercion, moreover, lies outside the usual purview of "civil rights." We have barely begun to think about the dependency created by such indirect government benefits as tax deductions and draft deferments. The economic and social "channelling," (to use the Selective Service term) created by these subsidies is probably more oppressive than that of the obvious conditions upon benefits discussed by O'Neil, but the legal rights of the beneficiaries are even more embryonic.

It is no criticism of O'Neil's book that he cannot do more than touch upon these problems, yet it is apparent that if we are to exercise any control over the government's control of us, we must see how wide-ranging our dependency is.

It has been traditional to say, for example, that the government may put any conditions it likes upon its taxing powers because a tax deduction is a matter of grace, but with the death of the distinction between "right" and privilege" in other areas, this tradition may yield to control by due process and equal protection. To cite only one tiny example in an ocean of tax discriminations, the rule which prevents many women from deducting the cost of child care, while men can do so, may be subject to constitutional attack.

The dependency of the individual is also growing in relation to organizations, especially industries, which are nominally "private," but increasingly assume the powers of government. This leads me to my one quarrel with O'Neil's excellent book. He concludes that "government has the power to restrict a public beneficiary only to the extent it can control his private counterpart." In other words, government cannot require a loyalty oath of a public employee, any more than it can of a Ford employee. However desirable the immediate result, this seems to me a treacherous standard; we may wish, at some not very distant date, to increase the protection of the individual by the government *against* oppression in the private sector.

We are already trying to find ways to extend some of the standards of due process for relations between public government and its beneficiaries into relations between *private* government and its beneficiaries. Thus when a private employer insists upon political conformity, the private employee has no remedy. Should he not have as many rights as a public employee? We may hope for a time when the government will extend its protection of the individual into the private sector. O'Neil's rule assumes that government power in the private sector is and must remain very limited, but that may not forever be the case. □

# RECORDS

## DAVID HAMILTON

SCHUBERT: Piano Sonata in B-flat major, D. 960. Artur Rubinstein, piano. RCA Red Seal LSC-3122. $5.98.

SCHUBERT: Piano Sonata in B-flat major, D. 960; Scherzo in B-flat major, D. 593. Wilhelm Kempff, piano. Deutsche Grammophon 139-323. $5.98.

The contrasting acoustic ambiences of these two recordings are almost more striking than their differences of executive approach. With RCA, the piano is heard at living-room distance, with enormous clarity and solidity; indeed, I have never heard a recording that so successfully projected the "living presence" of a Steinway piano, and the tonal effect is quite beautiful. Deutsche Grammophon offers something more like a concert-hall distance, with a concomitant loss of clarity and presence, but more scope for "atmospheric" effect of color, and at least the psycho-acoustic illusion of greater dynamic range.

Traditionally, the great challenge of this sonata is to sustain the long first movement, a problem augmented when one observes, as Kempff does, the indicated repeat of the exposition. Rubinstein, although avoiding this challenge, loses his (or, at least, the listener's) way in the development by misleading tempo changes and exaggerated articulations; elsewhere he distorts local relationships through non-observance of dynamic indications. Nevertheless, for a pianist from the Slavic tradition, this is a remarkable achievement; one recalls the anecdote about Rachmaninoff: asked if he played any of the Schubert sonatas, he exclaimed: "He wrote *sonatas*?"

Kempff makes a more consistent line in the first movement, and achieves even greater success in what follows. I point


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particularly to the closing thematic statement in the slow movement, where the melodic and harmonic functions of the little upbeat figure in the bass are marvelously clarified, and to the subtle underlining of the phrase structure in the Scherzo. A typical point of contrast between the two interpretations may be found in the finale, where Rubinstein hurries the retransitions to create suspense; Kempff understands that the thematic liquidation of this point creates sufficient preparatory structural tension, to which acceleration is in fact counterproductive. Of the recordings currently in the catalogue, Kempff's comes closest to equaling the nonavailable Schnabel.

One minor point: while additional playing time on records is always welcome, the placement of the "filler" (in the case of the DG record, an attractive piece, engagingly played) may make it a positive annoyance. Wherever possible, such pieces should go at the start of side 1, not hard on the heels of a lengthy and profound work, enforcing a dash to the turntable on the part of the intelligent listener who doesn't feel like hearing an encore immediately.


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## APPROACHING 40

*The broken down barn of a man,*
*his face an Arkansas of ruts and gulleys,*
*leans against the weathered bricks*
*of the Farmers National Bank.*

*It has quit raining again.*
*The high school kids coming up Main Street*
*break into a thigh-whacking gallop.*
*They are wild horses drunk in a green wind.*

*Approaching 40,*
*I realize I'm terrified of growing old.*
*Already the buxom farm girls*
*are aware of my stuttering hands.*

Dave Etter

MAHLER: *Des Knaben Wunderhorn* (two performances). Christa Ludwig, mezzo-soprano; Walter Berry, baritone; Leonard Bernstein, piano (in one performance); New York Philharmonic; Leonard Bernstein, cond. (in second performance). Columbia KS-7395. $6.98.

In the context of my comments on the last recording of the *Wunderhorn* songs [see *The Nation*, February 10, 1969] this one must be censured to the extent that it includes only seven of the songs in their original keys, one of them for the first time on records. This stricture, of course, does not apply to the piano-accompanied version, recorded "live" at a Vienna concert two years ago, for the transposition of six numbers does not affect the sonorous characteristics of Mahler's piano reductions. The opportunity for comparison offered by the paired performances is intriguing; for all the coloristic brilliance of Bernstein's piano work (and it is, despite some palpable fluffs, brilliant playing), the articulative and textural conception is vastly clarified in the orchestral recording.

As pleasurable listening, unfortunately, both versions leave a great deal to be desired. Ludwig was in somewhat coarse voice on the Viennese occasion, but her improvement for the New York studio sessions is offset by Berry's forcing and loss of pitch clarity; he was clearly happier when not straining to overcome an orchestra. And to compound this error, the New York engineers have given the voices an improbable prominence; even these rather brash orchestral accompaniments (almost as if exaggerated to emphasize their superiority over the piano versions) have a difficult time getting through to the listener.

Once again, we must wait for a version of these songs conceived to match Mahler's requirements—which would also entail abandonment of the (I believe) unfounded practice of singing some of the songs as duets.

MAHLER: Symphony No. 1 in D major. London Symphony Orchestra; Jascha Horenstein, cond. Nonesuch H-71240. $2.98.

Reminiscent of Klemperer in its refusal to vulgarize even the tempting final pages of this piece, Horenstein's performance strikes me as the best Mahler recording we have had in some months. Aided by superb orchestral playing, the conductor sets forth every detail of the score with great clarity and directness—the kind of performance that sounds easy because it turns out to correspond with the score's specifications in every dimension. It isn't easy, as many other recordings attest. Horenstein, whose Mahler recordings of twenty years ago have an immense and justified reputation, should be heard from more often.

Other recommended recordings:

MAHLER: *Lieder eines fahrenden Gesellen.* STRAUSS, SCHUBERT, BRAHMS, WOLF: Songs. Heinrich Schlusnus, baritone; various pianists. Hessian Radio Symphony; Winfried Zillig, cond. Heliodor 2548-702. $4.98 ("electronic stereo"; the original German mono issue, Heliodor 88020, available in import shops, is definitely preferable and not much more expensive).

COPLAND: *An Outdoor Overture*; *Our Town*; Two Pieces for String Orchestra; *Quiet City*. London Symphony Orchestra; Aaron Copland, cond. Columbia MS-7375. $5.98.

BRITTEN: Suite for Cello, Op. 72; Second Suite for Cello, Op. 80. Mstislav Rostropovich, cello. London CS-6617. $5.98. □



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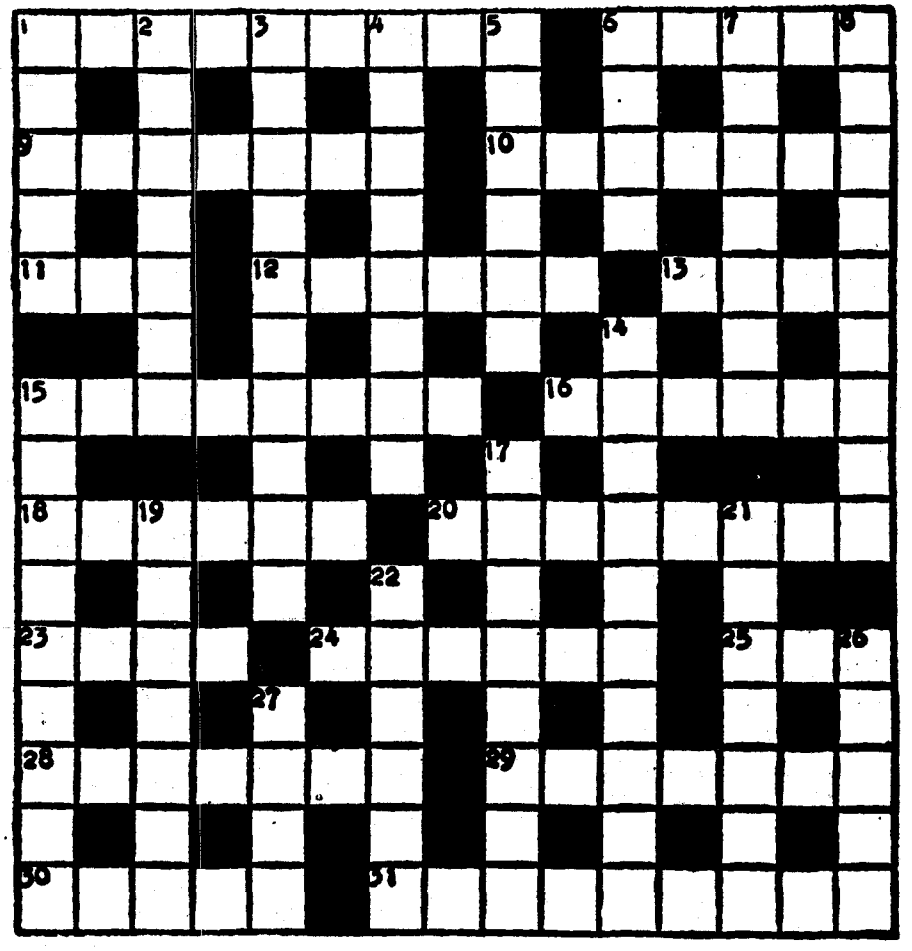
# Crossword Puzzle No. 1352

**FRANK W. LEWIS**



## ACROSS

1 "Intrigue" has an unusual role for the Latin-American dashing type. (9)
6 Declined to be wrongly associated with the plot. (5)
9 Approaches things as a happy child might, but provides some obstacle. (5,2)
0 They sound like cracks of those who expect a catch somewhere. (7)
1 The type of 23 that is likely to produce rather harried waiters. (3)
2 Four-leaf clovers might be found by it.
3 Weapon that makes 30 reach to great heights. (4)
5 Good beginnings, but the Spanish might be surrounded by extremely modest types. (8)
6 It's probably the way we drive! (6)
8 Women wouldn't like to be told they do so in dress, but they might have had clubs long ago. (6)
0 Polish an example of the type that might provoke international arguments.
3 With 27, it might provide the speaker with good material. (4)
4 and 5 down. Late commuters might, as Mr. Dewey did on several occasions. (3,3,6)
5 Wood seen before and after the fire.
8 Grant, as part of the Republic once defended. (7)
9 The old-fashioned touch? (7)
0 Talk to 6 down and it suggests a bar to our generation. (5)
1 Every single woman at one time might join their ranks. (9)

## DOWN

1 More clever and accomplished at pressing suits if the preface is prose. (5)
2 Blinder, in a way, with more than one color. (7)
3 Usually not pursued by a natural winner—but the statement might be followed by lots of change. (4,6)
4 At ones all-together? (8)
5 Where one might work with 11, it is commanded. (6)
6 It's not hard to see what some would like to be on with 16. (4)
7 It might be hard for a genealogically-minded apiarist to trace without any deviation. (7)
8 Nonconformist. (9)
14 A good beginning for frameworks that might mark the film. (10)
15 Acts like a professional man, but doesn't engage in the real thing. (9)
17 Pieces in papers? Quite the opposite!
19 The sound of it finally suggests what to do to the blackboard to do it. (7)
21 Help up what belongs to me in the compound. (7)
22 Londoners who travel might be likened to potatoes. (6)
26 Gives over the bar with 13. (5)
27 Pack those that might be used to swab with 26. (4)

## SOLUTION TO PUZZLE NO. 1351

ACROSS: 1 Cabalists; 6 Fives; 9 Routs; 10 Bankrolls; 11 Ligatures; 12 Extra; 13 Spats; 15 Clarendon; 18 Dismissal; 19 Diced; 20 Calif; 22 Canadians; 25 Interpret; 26 Auber; 27 Nines; 28 Sincerely. DOWN: 1 Cyril; 2 Bluegrass; 3 Liszt; 4 Subtracts; 5 Sinks; 6 Force feed; 7 and 17 Valet de chambre; 8 Sustained; 13 Seduction; 14 Spitfires; 16 Arlington; 21 Latin; 22 Cares; 23 Drake; 24 Surly.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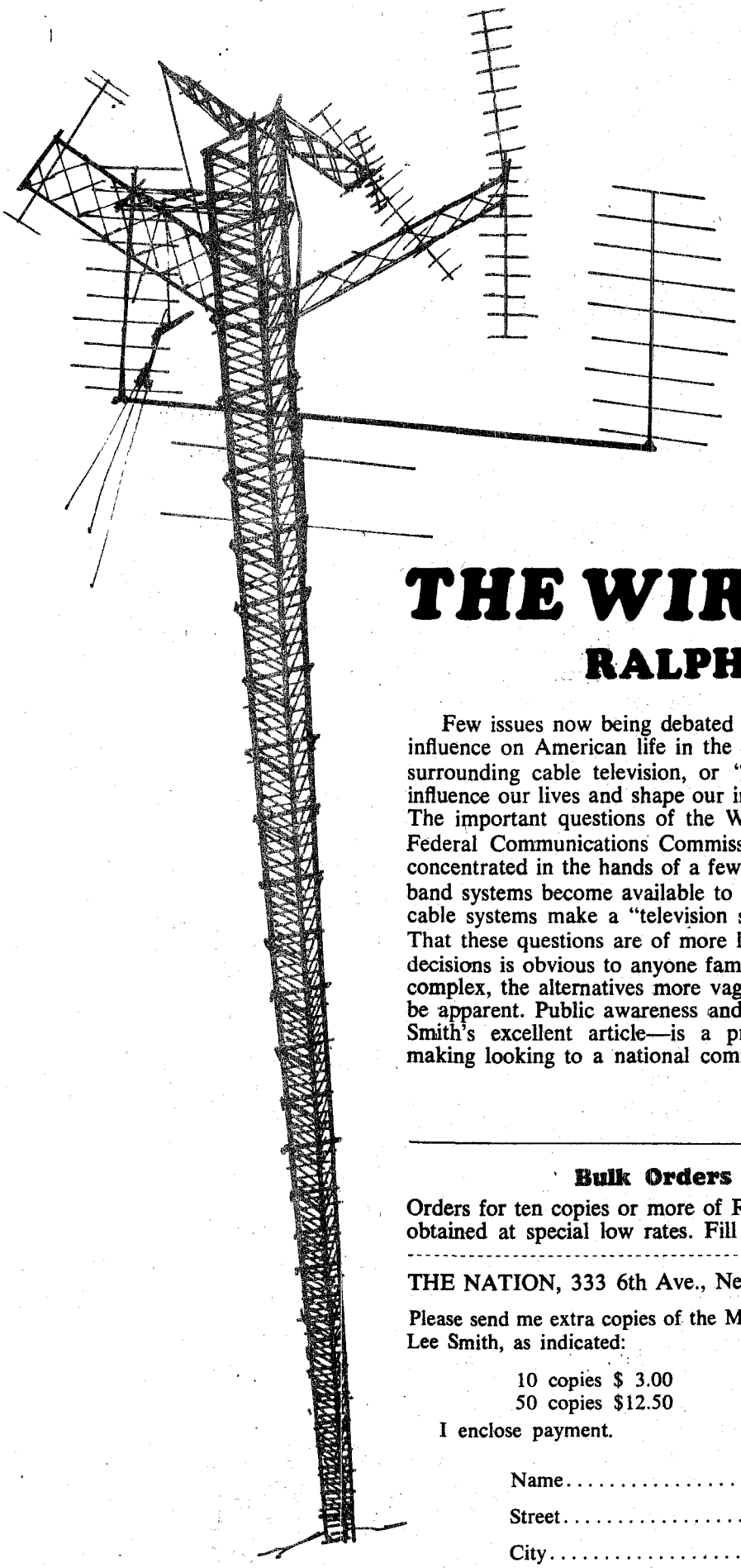

# THE WIRED NATION

## RALPH LEE SMITH

Few issues now being debated by the federal government have more potential influence on American life in the remaining third of this century than the issues surrounding cable television, or "The Wired Nation." Communications systems influence our lives and shape our institutions in ways unlike any other technology. The important questions of the Wired Nation are now being considered by the Federal Communications Commission. Will control over cable television become concentrated in the hands of a few media barons? Will two-way, switched, broad-band systems become available to all homes? Will "common-carrier" channels on cable systems make a "television station" available to all who want to use one? That these questions are of more long-range consequence than conventional FCC decisions is obvious to anyone familiar with the subject. That the issues are more complex, the alternatives more vague, and the pressures more intense should also be apparent. Public awareness and discussion—such as will be produced by Mr. Smith's excellent article—is a prerequisite to intelligent government decision making looking to a national communications system for the future.

—NICHOLAS JOHNSON, Commissioner,
The Federal Communications Commission

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